

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 950****[SPATS No. WY-030-FOR]****Wyoming Regulatory Program****AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** We are announcing receipt of a proposed amendment to the Wyoming regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Wyoming proposes revisions to its Coal Rules regarding placement of spoil outside of the mined-out area, clarification of self-bonding requirements, approving permit revisions, incremental bonds, incidental operation changes and termination of jurisdiction. Wyoming intends to revise its program to be consistent with the corresponding Federal regulations, provide additional safeguards, clarify ambiguities, and improve operational efficiency.

This document gives the times and locations that the Wyoming program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments on this amendment until 4:00 p.m., m.d.t. July 19, 2002. If requested, we will hold a public hearing on the amendment on July 15, 2002. We will accept requests to speak until 4:00 p.m., m.d.t. on July 5, 2002.

**ADDRESSES:** You should mail or hand deliver written comments and requests to speak at the hearing to Guy Padgett at the address listed below.

You may review copies of the Wyoming program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document 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 the Office of Surface Mining Reclamation and Enforcement's (OSM's) Casper Field Office.

Guy Padgett, Casper Field Office, Office of Surface Mining Reclamation and

Enforcement, 100 East "B" Street, Federal Building, Room 2128, Casper, Wyoming 82601-1918, 307/261-6550, [GPadgett@osmre.gov](mailto:GPadgett@osmre.gov).

Dennis Hemmer, Director, Wyoming Department of Environmental Quality, Herschler Building, 122 West 25th Street, Cheyenne, Wyoming 82002, 307/777-7682, [dhemmer@state.wy.us](mailto:dhemmer@state.wy.us).

**FOR FURTHER INFORMATION CONTACT:** Guy Padgett, Telephone: 307/261-6550. Internet: [GPadgett@osmre.gov](mailto:GPadgett@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

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

**I. Background on the Wyoming 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 the Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to the 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 Wyoming program on November 26, 1980. You can find background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Wyoming program in the November 26, 1980, **Federal Register** (45 FR 78637). You can also find later actions concerning Wyoming's program and program amendments at 30 CFR 950.12, 950.15, 950.16, and 950.20.

**II. Description of the Proposed Amendment**

By letter dated April 30, 2002, Wyoming sent us a proposed amendment to its program (administrative record No. WY-35-01) under SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming sent the amendment in response to a November 7, 1988, letter (administrative record No. WY-35-05) and a February 21, 1990, letter (administrative record No. WY-35-07) that we sent to Wyoming in accordance with 30 CFR 732.17(c), and in response to the required program amendments at 30 CFR 950.16(j, k, n, y, and z), and to include changes made at its own initiative. The full text of the program amendment is available for you to read

at the locations listed above under **ADDRESSES**.

The provisions of Wyoming's Coal Rules that Wyoming proposes to revise are: (1) Chapter 1, Section 2 and Chapter 13, Section 1(a), (b), and (c), definitions, cross-reference, and guidelines on permit revisions; (2) Chapter 4, Section 2(b)(iv), backfilling, grading, contouring, spoil, topsoil, vegetative and organic material to satisfy the required program amendment at 30 CFR 950.16(n); (3) Chapter 11, Sections 1(a), 2(a), 3(b), 3(c) and 4(a), bond and insurance requirements for surface coal mining operations under regulatory programs, intended to satisfy some of the deficiencies identified by OSM in its November 7, 1988, 30 CFR 732 letter to Wyoming; (4) Chapter 12, Section 1(b), review, public participation, and approval or disapproval of permit applications, permit term and conditions, and Chapter 13, Section 1(d)(iv)(D), probable hydrologic consequences assessment revision or update (changes to both Chapters 12 and 13 are intended to satisfy the program deficiency identified at 30 CFR 950.16(y)); (5) Chapter 12, Section 2(d)(iii), bonding and insurance procedures intended to satisfy the program deficiencies (numbered G-1) contained in the February 21, 1990, 30 CFR 732 letter we sent to Wyoming; (6) Chapter 15, Section 7, termination of jurisdiction, intended to satisfy the program deficiency (D-1) we sent Wyoming in a February 21, 1990, 30 CFR 732 letter; (7) Chapter 13, Section 1(d), intended to correct a cross-reference listed as a program deficiency in 30 CFR 950.16(j)[part 2]; and (8) Chapter 13, Section 1(a), concerning alternative methods of permit revision, intended to satisfy the program deficiency listed at 30 CFR 950.16(j)[part 3].

**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 Wyoming program.

**Written Comments**

Send your written or electronic comments to OSM at the address given above. Your comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment

period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Casper Field Office may not be logged in.

#### *Electronic Comments*

Please submit Internet comments as an ASCII file or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS No. WY-030-FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Casper Field Office at 307/261-6555.

#### *Availability of Comments*

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

#### *Public Hearing*

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t. on July 5, 2002. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others

present in the audience who wish to speak, have been heard.

#### *Public Meeting*

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

#### **IV. Procedural Determinations**

##### *Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

##### *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.

##### *Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 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 because each 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.

##### *Executive Order 13132—Federalism*

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining

operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

##### *Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

##### *National Environmental Policy Act*

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

### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

### *Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

### **List of Subjects in 30 CFR Part 950**

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 16, 2002.

**Peter A. Rutledge,**

*Acting Regional Director, Western Regional Coordinating Center*

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**BILLING CODE 4310-05-P**

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## **DEPARTMENT OF THE TREASURY**

### **Office of Foreign Assets Control**

#### **31 CFR Part 501**

#### **Rules Governing Availability of Information**

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** The Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury invites public comments on a proposed rule

concerning the disclosure of certain civil penalties information. On a periodic basis, not less frequently than quarterly, OFAC intends to make public certain information about civil penalties imposed and informal settlements.

**DATES:** Public comments must be received by OFAC on or before July 19, 2002.

**ADDRESSES:** Comments may be submitted to the Chief of Records, ATTN: Request for Comments, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Alternatively, comments may be submitted via facsimile to the Chief of Records at 202/622-1657 or via OFAC's Web site <<http://www.treas.gov/offices/enforcement/ofac/comment.html>>.

**FOR FURTHER INFORMATION CONTACT:** Chief of Records, tel.: 202/622-2500, or Chief Counsel, tel. 202/622-2410.

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

OFAC is committed to making its enforcement activities more transparent to the public. In an effort to achieve this goal, while balancing foreign policy considerations and the requirements of the statutes, Executive Orders, and regulations it administers and enforces, OFAC offers this notice of a proposed rule governing the public availability of certain civil penalties information. OFAC expects that making certain additional information public will promote greater awareness of its enforcement activities and encourage compliance with the economic sanctions programs OFAC administers and enforces under 31 CFR chapter V.

OFAC has already made public certain information pertaining to informal settlements of civil penalties matters in response to a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. 552. Within a given range of dates, the FOIA requester sought, inter alia, the identity of each entity with which a civil penalties matter was settled, the nature of the alleged violation, and the amount of the settlement. OFAC is still in the process of completing its response to this particular FOIA request, but an interim release of documents generated substantial public interest.

Prospectively, OFAC intends to make public the following civil penalties information on a periodic basis, not less frequently than quarterly. In proceedings against an entity that result in either the imposition of a civil monetary penalty or an informal settlement, OFAC plans to release (1) the name of the entity involved, (2) the

sanctions program involved, (3) a brief description of the violation or alleged violation, and (4) the amount of the penalty imposed or the amount of the agreed settlement. At this time, OFAC does not plan to release the names of individuals involved in civil penalties matters, but OFAC may decide to do so in the future; we would welcome public comments on the potential disclosure of individual names in response to this notice. For the time being, penalties and informal settlements involving individuals will be included in the periodic release on an aggregate basis. The information concerning civil penalties and informal settlements will be made available to the public through OFAC's Web site <<http://www.treas.gov/offices/enforcement/ofac/index.html>>.

In addition to the names of individuals, there are certain types of information that OFAC does not propose to make public under this rule. These include information relating to the Foreign Narcotics Kingpin Sanctions Regulations, trade secrets and other sensitive commercial or financial information, and information on proceedings that have not yet been completed.

*Civil Penalties Proceedings Under the Kingpin Act.* Section 805(e)(3) of the Foreign Narcotics Kingpin Designation Act ("FNKDA"), 21 U.S.C. 1904(e)(3), provides that a key disclosure provision of FOIA, 5 U.S.C. 552(a)(3), shall not apply to any record or information obtained or generated in the implementation of FNKDA. OFAC has implemented FNKDA through the Foreign Narcotics Kingpin Sanctions Regulations, 31 CFR part 598, which explain that information obtained or created in the implementation of those regulations shall not be disclosed under section 552(a)(3) of FOIA. See 31 CFR § 598.802. In recognition of the important policies underlying this provision of FNKDA, OFAC does not plan to make public, under this proposed rule, information from civil penalties proceedings conducted under the Foreign Narcotics Kingpin Sanctions Regulations.

*Trade Secrets and Commercial or Financial Information.* OFAC does not intend to make public any "trade secrets and commercial or financial information obtained from a person and privileged or confidential," within the meaning of section 552(b)(4) of FOIA.

*Pending Proceedings.* As a matter of policy, OFAC does not publicly comment on pending enforcement and civil penalties proceedings. OFAC plans to make public the information described in this proposed rule only