

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-165579-02]

RIN 1545-BB81

**Withdrawal of Proposed Regulations Relating to Corporate Reorganizations; Transfers of Assets or Stock Following a Reorganization****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Withdrawal of notice of proposed rulemaking.

**SUMMARY:** This document withdraws a notice of proposed rulemaking regarding the effect of certain transfers of assets or stock on the qualification of certain transactions as reorganizations under section 368(a). The proposed regulations were published on March 2, 2004. After consideration of additional issues related to the effect of transfers of assets or stock on the qualification of a transaction as a reorganization, the IRS and Treasury Department have decided to withdraw the proposed regulations and issue new proposed regulations that provide a more complete set of rules addressing such transfers.

**DATES:** These proposed regulations are withdrawn August 17, 2004.**FOR FURTHER INFORMATION CONTACT:** Jeffrey B. Fienberg (202) 622-7770 (not a toll-free call).**SUPPLEMENTARY INFORMATION:****Background**

On March 2, 2004, the IRS and Treasury Department issued proposed regulations regarding the effect of certain transfers of assets or stock on the qualification of certain transactions as reorganizations under section 368(a) (69 FR 9771) (hereinafter the March 2004 proposed regulations). After consideration of additional issues related to the effect of transfers of assets or stock on the qualification of a transaction as a reorganization, including distributions of assets or stock after purported reorganizations, the IRS and Treasury Department have decided to withdraw the March 2004 proposed regulations and issue new proposed regulations that provide a more complete set of rules addressing such transfers. Accordingly, the March 2004 proposed regulations are withdrawn.

**Drafting Information**

The principal author of this withdrawal notice is Jeffrey B. Fienberg

of the Office of Associate Chief Counsel (Corporate).

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Withdrawal of Notice of Proposed Rulemaking**

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (REG-165579-02) published in the **Federal Register** on March 2, 2004 (69 FR 9771) is hereby withdrawn.

**Deborah M. Nolan,***Acting Deputy Commissioner for Services and Enforcement.*

[FR Doc. 04-18791 Filed 8-16-04; 8:45 am]

BILLING CODE 4830-01-P

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 950**

[WY-032-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 rules about highwalls and coal exploration. Wyoming intends to revise its program to be consistent with the corresponding Federal regulations.

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 p.m., m.d.t. September 16, 2004. If requested, we will hold a public hearing on the amendment on September 13, 2004. We will accept requests to speak until 4 p.m., m.d.t. on September 1, 2004.

**ADDRESSES:** You may submit comments, identified by "WY-032-FOR," by any of the following methods:

- *E-mail:* [JFulton@osmre.gov](mailto:JFulton@osmre.gov). Include "WY-032-FOR" in the subject line of the message.

- *Hand Delivery/Courier:* James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway (33rd floor), Suite 3320, Denver, CO 80202.

- *Mail:* James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, PO Box 46667, Denver, CO 80201.

- *Fax:* 303/844-1545.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

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

*Docket:* Access to the docket to review copies of the Wyoming program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document is 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) Denver Field Division. In addition, you may review a copy of the amendment during regular business hours at the following locations:

James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway (33rd floor), Suite 3320, Denver, CO 80202. 303/844-1400, ext. 1424; [JFulton@osmre.gov](mailto:JFulton@osmre.gov).

Richard A. Chancellor, Administrator, Land Quality Division, Department of Environmental Quality, Herschler Building—3rd Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. 307/777-7046; [rchanc@state.wy.us](mailto:rchanc@state.wy.us).

**FOR FURTHER INFORMATION CONTACT:** James F. Fulton, telephone: 303/844-1400, ext. 1424. Internet: [JFulton@osmre.gov](mailto:JFulton@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 this Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the 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 May 21, 2004, Wyoming sent us a proposed amendment to its program (Rule Package 1R, administrative record No. WY-37-1) under SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming sent the amendment in response to a February 21, 1990, letter (administrative record No. WY-37-7) 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(a), (w), and (ll). The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

The provisions of its Coal Rules that Wyoming proposes to revise are: (1) Chapter 1, Section 2, repeal of definition of soft rock surface mining; (2) Chapter 4, Section 2, rule language addition; (3) Chapter 4, Section 2, repeal of highwall addition; (4) Chapter 4, Section 2, rule language addition; (5) Chapter 10, Sections 1, 2, 3, 4, & 8 and Chapter 1, Section 2, coal exploration; and (6) Chapter 1, Section 2 and Chapter 10, Section 8, coal exploration.

Specifically, (1) Wyoming's Coal Rules only pertain to coal so even though coal is a "soft rock" there is no reason to maintain a definition that includes other minerals; (2) to revise the State reference to be the same as the Federal reference within the coal exploration regulations to be "250 tons or less" rather than "less than 250 tons;" (3) to specify that an application for a coal exploration permit also include a narrative in addition to a map;

(4) to add that highwall retention may be considered on a case-by-case basis to enhance wildlife habitat "as replacement for natural features that were eliminated by mining;" (5) to add language to clarify application requirements for coal exploration; and (6) to add definitions and authorities for coal exploration.

## 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 anyone other than James Fulton at the Denver Field Division may not be logged in.

### Electronic Comments

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: SATS No. WY-032-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 Denver Field Division at 303/844-1400, ext. 1424.

### 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 p.m., m.d.t. on September 1, 2004. 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 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. The rule does not involve or affect Indian tribes in any way.

#### *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: July 22, 2004.

**Allen D. Klein,**

*Regional Director, Western Regional Coordinating Center.*

[FR Doc. 04–18775 Filed 8–16–04; 8:45 am]

**BILLING CODE 4310–05–P**

## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Parts 1, 2, and 97**

[WT Docket No. 04–140; FCC 04–79]

#### **Amateur Service Rules**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to revise operating privileges for amateur radio service licensees as well as to eliminate obsolete and duplicative rules in the Amateur Radio Service. We believe that these proposals will promote the development of the amateur radio service by providing licensees greater flexibility in the utilization of amateur service frequencies; eliminate unduly burdensome or duplicative requirements that may discourage individuals from becoming amateur radio service licensees; and promote efficient use of spectrum allocated to the Amateur Radio Service.

**DATES:** Submit comments on or before September 16, 2004, and reply comments are due on or before October 1, 2004.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. See **SUPPLEMENTARY INFORMATION** for filing instructions.

**FOR FURTHER INFORMATION CONTACT:** William T. Cross,