

## Regulatory Findings

### *Administrative Procedure Act*

In accordance with provisions of the Administrative Procedure Act governing rules promulgated by Federal agencies that affect the public (5 U.S.C. 552), the Department is publishing this direct final rule and inviting public comment.

### *Regulatory Flexibility Act*

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

### *Unfunded Mandates Reform Act of 1995*

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the Unfunded Mandates Reform Act of 1995.

### *Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

### *Executive Order 12866*

The Department of State does not consider this rule to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

### *Executive Order 13132*

This regulation will not have substantial direct effects on the States, on the relationship between the national

government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

### *Paperwork Reduction Act*

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

### List of Subjects in 22 CFR Part 10

Conflict of interest, Government employees.

■ Accordingly, under the authority of the Ethics in Government Act of 1978 (5 U.S.C. App.); Executive Order 12674, as modified by Executive Order 12731; 5 CFR Part 2634 and 5 CFR Part 2635, the Department of State and the United States Agency for International Development are amending 22 CFR chapter 1 by removing part 10.

Dated: January 19, 2005.

**Grant S. Green Jr.,**

*Under Secretary of State for Management, Department of State.*

Dated: March 11, 2005.

**Steven Wisecarver,**

*Acting Assistant Administrator for Management, U.S. Agency for International Development.*

[FR Doc. 05-6383 Filed 4-1-05; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 936

[Docket No. OK-031-FOR]

#### Oklahoma Abandoned Mine Land Reclamation Plan

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Oklahoma abandoned mine land reclamation plan (Oklahoma plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Oklahoma proposed revisions to its plan concerning project ranking and selection procedures, the State

Reclamation Committee, and the public participation policies. Oklahoma intends to improve operational efficiency.

**EFFECTIVE DATE:** April 4, 2005.

**FOR FURTHER INFORMATION CONTACT:** Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581-6430. E-mail address: [mwolfrom@osmre.gov](mailto:mwolfrom@osmre.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Background on the Oklahoma Plan
- II. Submission of the Amendment
- III. OSM's Findings
- IV. Summary and Disposition of Comments
- V. OSM's Decision
- VI. Procedural Determinations

#### I. Background on the Oklahoma Plan

The Abandoned Mine Land Reclamation (AMLR) Program was established by Title IV of the Act (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Indian Tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary of the Interior for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines. On the basis of these criteria, the Secretary of the Interior approved the Oklahoma plan on January 21, 1982. You can find background information on the Oklahoma plan, including the Secretary's findings, the disposition of comments, and the approval of the plan in the January 21, 1982, **Federal Register** (47 FR 2989). You can find later actions concerning the Oklahoma plan and amendments to the plan at 30 CFR 936.25.

#### II. Submission of the Amendment

By letter dated November 1, 2004 (Administrative Record No. OK-994), Oklahoma sent us a proposed amendment to its plan under SMCRA (30 U.S.C. 1201 *et seq.*). Oklahoma sent the amendment at its own initiative.

We announced receipt of the proposed amendment in the December 29, 2004, **Federal Register** (69 FR 77965). In the same document, we opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. We did not hold a public hearing or meeting because no one

requested one. The public comment period ended on January 28, 2005. We did not receive any public comments.

During our review of the amendment, we identified areas that could benefit from improved clarity and completeness. These areas concerned the State Reclamation Committee and the public participation policies. We notified Oklahoma of these areas by e-mail on January 18, 2005 (Administrative Record No. OK-994.03), and provided the State with suggestions for improving their clarity and completeness.

By letter dated January 24, 2005 (Administrative Record No. OK-994.04), Oklahoma sent us additional explanatory information and revisions to its plan amendment. Because the additional information merely clarified certain provisions of Oklahoma's proposed amendment, we did not reopen the public comment period.

### III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15. We are approving the amendment.

#### A. Section 884.13(c)2—Project Ranking and Selection Procedure

##### 1. Site Selection

Under the section titled, "Site Selection," Oklahoma proposed to revise the introductory paragraph by eliminating the four annual public regional meetings. Oklahoma also proposed to change where it will annually publish a public notice as part of the abandoned mine land (AML) project selection process. Currently, the notices are being published in the 16 counties with abandoned coal mine problem regions. Oklahoma proposed to publish the notices, which include the address of the Oklahoma Conservation Commission (OCC), in cities/towns within the abandoned coal mine region in eastern Oklahoma. These notices retain the public's ability to contact the OCC if a member of the public believes he or she has an AML site that poses a dangerous health and/or safety problem.

The Federal regulation at 30 CFR 884.13(c)(7) requires public participation and involvement in the State's reclamation program. Because Oklahoma will continue to annually publish public notices as part of the AML project selection process and will continue to allow the public the opportunity to be involved in this process by being able to contact the OCC if they believe they have an AML site that poses a dangerous health and/or

safety problem, we find that Oklahoma's proposed changes meet the requirement of the above Federal regulation. Therefore, we are approving the above changes.

##### 2. Table 3 Project Ranking and Selection Procedure

a. Under the heading, "General Public," Oklahoma proposed to remove the provision that allowed the general public to attend regional meetings to voice concerns regarding abandoned mine land and water that pose a threat to health and/or safety. Oklahoma is retaining the provision that allows the general public to send concerns in writing to the OCC.

The Federal regulation at 30 CFR 884.13(c)(7) requires public participation and involvement in the State's reclamation program. Because Oklahoma will continue to allow the public the opportunity to be involved in the site selection process by being able to contact the OCC if they believe they have an AML site that poses a dangerous health and/or safety problem, we find that Oklahoma's proposed change meets the requirement of the above Federal regulation. Therefore, we are approving the above change.

b. Under the heading "State Reclamation Committee," Oklahoma proposed to make editorial changes to one of its purposes to read as follows:

Review reclamation projects submitted by the OCC and make suggestions concerning these projects. After projects have been selected for reclamation, OCC will prepare and submit project applications to OSM.

Because these changes are editorial in nature and do not alter the original meaning of the previous language, we are approving the changes.

#### B. Section 884.13(c)3 Coordination of Reclamation Work Between the State, the Soil Conservation Service [Currently the Natural Resources Conservation Service] and Other Reclamation Agencies

##### 1. State Reclamation Committee

The State Reclamation Committee is composed of members from various agencies and organizations. Oklahoma proposed to revise the list of agencies and organizations from which this committee's membership comes by deleting or adding agencies and organizations. Oklahoma originally proposed to revise this list by removing the following agencies or organizations from the list: Oklahoma Association of Conservation Districts, Oklahoma Biological Survey, Oklahoma Department of Agriculture's Forestry Division, Oklahoma Department of

Environmental Quality, Oklahoma Geological Survey, Oklahoma Wildlife Conservation Commission, Oklahoma Wildlife Federation, U.S. Department of Agriculture's Natural Resources Conservation Service, U.S. Department of the Interior's Bureau of Land Management, and U.S. Geological Survey. After considering the suggestions to the amendment that we sent to the State via e-mail on January 18, 2005 (Administrative Record No. OK-994.03), Oklahoma decided to retain the Oklahoma Biological Survey's membership on the committee. Also, Oklahoma proposed to add the following agency and organization to the list: U.S. Department of the Interior's Fish and Wildlife Service and the Applicable Tribal Entity.

The Federal regulation at 30 CFR 884.13(c) requires a State reclamation plan to include a description of the policies and procedures to be followed by the designated agency in conducting the reclamation program. As stated in Oklahoma's AML plan, the purpose of the State Reclamation Committee is to: (1) Review the reclamation projects submitted by the OCC and to provide comments concerning the projects, (2) coordinate the reclamation activities taking place in the State, and (3) serve in an advisory capacity providing informational and educational services. With these specific purposes, the State Reclamation Committee, as revised, is integrated in the policies and procedures necessary to conduct the reclamation program and has a vital role in implementing the policies and procedures that are used in conducting the State's reclamation program. Therefore, we find that Oklahoma's proposed changes meet the requirement of the Federal regulation at 30 CFR 884.13(c), and we are approving them.

##### 2. Purpose of the State Reclamation Committee

a. Currently, the OCC and the Natural Resources Conservation Service can submit reclamation projects to the State Reclamation Committee for review. Oklahoma proposed to revise item number 1 of the purpose of the State Reclamation Committee by removing the Natural Resources Conservation Service as a submitter of reclamation projects. Oklahoma also proposed to revise item number 1 by requiring the State Reclamation Committee to provide comments to the OCC concerning the reclamation projects.

The Federal regulation at 30 CFR 884.13(c)(3) requires each State reclamation plan to include a description of the policies and procedures to be followed by the

designated agency in conducting the reclamation program, including the coordination of reclamation work among the State reclamation program, the Rural Abandoned Mine Program (RAMP) administered by the U.S. Department of Agriculture's Natural Resources Conservation Service (formerly the Soil Conservation Service), the reclamation programs of any Indian tribes located within the State, and OSM's reclamation program.

Oklahoma has set forth a description of the policies/procedures to be followed in conducting its reclamation program and has decided to change a portion of the policies/procedures by removing the Natural Resources Conservation Service as a submitter of reclamation projects and by revising one of the purposes of the State Reclamation Committee. Because Oklahoma has policies/procedures for conducting the State's reclamation program that include coordination with the entities listed at 30 CFR 884.13(c)(3), as applicable, and has chosen to change them as they relate to the purpose of the State Reclamation Committee as proposed in item number 1, we find that the State's proposed revisions meet the requirements of the Federal regulation at 30 CFR 884.13(c)(3). Therefore, we are approving the above changes.

b. Currently, item number 2 of the purpose of the State Reclamation Committee requires the committee to coordinate reclamation activities taking place in the State with RAMP activities and the State and Federal AML Programs to avoid duplication of effort.

Oklahoma proposed to remove the requirement to coordinate reclamation activities taking place in the State with RAMP activities and the Federal AML Program and proposed to retain the coordination of reclamation activities taking place in the State with the State AML Program.

The Federal regulation at 30 CFR 884.13(c)(3) requires a description of the policies/procedures to be followed by the State in conducting the reclamation program including the coordination of reclamation work among the State reclamation program, the RAMP administered by the U.S. Department of Agriculture's Natural Resources Conservation Service (formerly the Soil Conservation Service), the reclamation programs of any Indian tribes located within the State, and OSM's reclamation program.

As allowed by section 401(c)(2) of SMCRA, moneys in the Abandoned Mine Reclamation Fund may be transferred on an annual basis to the Secretary of Agriculture for use under section 406 of SMCRA titled,

"Reclamation of Rural Lands." Section 406 of SMCRA establishes the RAMP. Congress has not appropriated funds to the Secretary of Agriculture for the RAMP since 1995. Without these appropriations, the Natural Resources Conservation Service cannot conduct the RAMP in Oklahoma or any other State. Because the RAMP does not exist in Oklahoma, the language in Oklahoma's AMLR program requiring coordination of reclamation with RAMP activities is unnecessary. Therefore, we are approving the removal of this language from Oklahoma's AMLR program. However, if Congress appropriates funds for the RAMP and the Natural Resources Conservation Service conducts such a program in Oklahoma, it will then become necessary for Oklahoma to amend its program to include coordination of reclamation activities with RAMP activities. Also, we are approving the removal of the requirement to coordinate with the Federal AML Program. This requirement, found in Section 884.13(c)(2) of the Oklahoma plan, is a duplication of one currently contained in "Table 3 Project Ranking and Selection Procedure" where the OCC prepares and submits reclamation project applications to OSM.

#### *C. Section 884.13(c)7 Public Participation Policies*

Oklahoma originally proposed to revise the introductory paragraph by deleting language stating that public participation will be incorporated in the project selection and the annual grant application process and by adding language stating that public participation will be incorporated by utilizing public notices in several newspapers in the AML areas. After considering the suggestions to the amendment that we sent to the State via e-mail on January 18, 2005 (Administrative Record No. OK-994.03), Oklahoma decided to retain the language stating that public participation will be incorporated in the project selection and the annual grant application process. The revised introductory paragraph will read as follows:

Public participation in this program will be encouraged throughout the period in which the State Reclamation Plan is being developed and/or amended. Public participation will also be incorporated in the project selection and the annual grant application process by utilizing public notices in several newspapers in the AML areas.

Also, in paragraph (1) titled, "Public participation in the development and/or amendment of the State Reclamation

Plan," the current language under this title reads as follows:

At least 15 days before the submission of the State Reclamation Plan to the OSM, the Oklahoma Conservation Commission will begin public meetings which will be convenient in time and location to the impacted population. Issues raised in the public meetings will be addressed by the OCC and documentation of any action taken to resolve each issue will be made by the OCC.

Oklahoma proposed to revise the first sentence in the above language by inserting the words, "or amendment to the State Reclamation Plan," after the words, "State Reclamation Plan." The revised language reads as follows:

At least 15 days before the submission of the State Reclamation Plan or amendment to the State Reclamation Plan to the OSM, the Oklahoma Conservation Commission will begin public meetings which will be convenient in time and location to the impacted population. Issues raised in the public meetings will be addressed by the OCC and documentation of any action taken to resolve each issue will be made by the OCC.

In paragraph (2) titled, "Public participation in the annual grant application process, Oklahoma proposed to remove the current language and replace it with the following language:

Before the OCC submits the annual grant application, a public notice is printed in one of the major newspapers requesting input on the grant application. The public notice gives the purpose of the grant, where it can be reviewed, where written comments may be sent, and the comment deadline date.

Finally, Oklahoma proposed to add a new paragraph (3) titled, "Public participation in the project selection and submission process." This new section provides the general public an opportunity to identify AML projects for possible reclamation and requires publication of a public notice in the local newspaper requesting comments on any proposed project before the OCC submits the project to OSM. The public notice also requests suggestions for other possible reclamation of surface coal mine strip pits, underground coal mine open shafts or mine portals, and any other hazards associated with past coal mining that pose a threat to the health and safety of the general public. The public notice provides the contact person and address at the OCC. In addition, public notices that seek public input on possible hazardous AML sites will be printed annually in the Tulsa, Muskogee, McAlester, Claremore, Sallisaw, Poteau, and Vinita newspapers.

The Federal regulation at 30 CFR 884.13(c)(7) requires each proposed State reclamation plan to include a description of the policies and procedures to be followed by the designated agency in conducting the reclamation program including public participation in the State reclamation program. Because Oklahoma's State reclamation plan includes provisions for public participation in the State reclamation program, it meets the requirement of the above Federal regulation and we are, therefore, approving the above revisions.

#### IV. Summary and Disposition of Comments

##### *Public Comments*

We asked for public comments on the amendment, but did not receive any.

##### *Federal Agency Comments*

On November 18, 2004, under 30 CFR 884.14(a)(2) and 884.15(a), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Oklahoma plan (Administrative Record No. OK-994.01). No comments were received.

#### V. OSM's Decision

Based on the above findings, we approve the amendment Oklahoma sent us on November 1, 2004, and as revised on January 24, 2005.

To implement this decision, we are amending the Federal regulations at 30 CFR part 936, which codify decisions concerning the Oklahoma plan. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 405 of SMCRA requires that the State's plan demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

#### 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 regulations.

##### *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 and Tribal abandoned mine land reclamation plans and plan amendments because each program is drafted and promulgated by a specific State or Tribe, not by OSM. Decisions on proposed abandoned mine land reclamation plans and plan amendments submitted by a State or Tribe are based solely on a determination of whether the submittal meets the requirements to Title IV of SMCRA (30 U.S.C. 1231-1243) and 30 CFR part 884 of the Federal regulations.

##### *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 abandoned mine reclamation programs. 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 405(d) of SMCRA requires State abandoned mine land reclamation programs to be in compliance with the procedures, guidelines, and requirements established under 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. This determination is based on the fact that the Oklahoma plan does not provide for reclamation and restoration of land and water resources adversely affected by past coal mining on Indian lands. Therefore, the Oklahoma plan has no effect on Federally-recognized Indian tribes.

##### *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 agency decisions on proposed State and Tribal abandoned mine land reclamation 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)).

##### *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 regulations did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 936**

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 14, 2005.

**Ervin J. Barchenger,**

*Acting Regional Director, Mid-Continent Regional Coordinating Center.*

■ For the reasons set out in the preamble, 30 CFR part 936 is amended as set forth below:

**PART 936—OKLAHOMA**

■ 1. The authority citation for part 936 continues to read as follows:

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

■ 2. Section 936.25 is amended in the table by adding a new entry in chronological order by “Date of Final Publication” to read as follows:

**§ 936.25 Approval of Oklahoma abandoned mine land reclamation plan amendments.**

\* \* \* \* \*

| Original amendment submission date | Date of final publication | Citation/description   |
|------------------------------------|---------------------------|--|
| 11/01/2004 .....                   | 4/4/05                    | Oklahoma Plan §§ 884.13(c)2—Project Ranking and Selection; (c)3—Coordination with Other Entities; and (c)7—Public Participation. |

[FR Doc. 05–6600 Filed 4–1–05; 8:45 am]

**BILLING CODE 4310–05–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 (OSM), Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We are approving, with one exception, a proposed amendment to the Wyoming regulatory program (the “Wyoming program”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Wyoming proposed to remove rules pertaining to soft rock surface mining and to revise and add rules about highwalls and coal exploration. Wyoming intended to revise or revised its program to be consistent with the corresponding Federal regulations, provide additional safeguards, clarify ambiguities, and to enhance and diversify reclamation.

**DATES:** *Effective Date:* April 4, 2005.

**FOR FURTHER INFORMATION CONTACT:** James F. Fulton, Chief, Denver Field Division, telephone: (303) 844–1400, extension 1424; Internet address: [jfulton@osmre.gov](mailto:jfulton@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Wyoming Program
- II. Submission of the Proposed Amendment
- III. Office of Surface Mining’s (OSM’s) Findings
- IV. Summary and Disposition of Comments
- V. OSM’s Decision
- VI. 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 conditions of approval 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 950.10, 950.12, 950.15, 950.16, and 950.20.

**II. Submission of the Proposed Amendment**

By letter dated May 21, 2004, Wyoming sent us an amendment to its program (Rule Package 1R, Administrative Record number 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 number WY–37–7) that we sent to the State under 30 CFR 732.17(c), and in response to the required program amendments at 30 CFR 950.16(a), (w), and (ll), and to include the changes made at its own initiative.

Changes Wyoming proposed to make in its Coal Rules included: (1) Chapter 1, section 2(l), revising the definition of “coal exploration;” (2) Chapter 1, section 2(ce), removing the definition of “soft rock surface mining;” (3) Chapter 4, section 2(b)(iv)(A), adding provisions for small depressions; (4) Chapter 4, section 2(b)(ix), (ix)(A), (B), and (C), removing soft rock surface mining provisions for backfilling and grading; (5) Chapter 4, section 2(b)(ix)(D), retaining and revising a soft rock mining provision for highwall retention; (6) Chapter 10, sections 1 and 1(b)(iii), revising requirements for coal exploration of 250 tons or less; (7) Chapter 10, sections 2(b), (b)(i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), and (xii), adding and revising application requirements for coal exploration of more than 250 tons or in areas designated unsuitable for mining; (8) Chapter 10, section 3(b), revising