

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 944

[SATS No. UT-046-FOR; Docket ID No. OSM-2009-0005]

#### Utah Regulatory Program

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

**ACTION:** Proposed rule, opening of public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** We are announcing the receipt of a proposed amendment to the Utah regulatory program (hereinafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 ("SMCRA" or "the Act"). Utah proposes to delete repeal dates for statutory provisions pertaining to permit eligibility and revegetation requirements on lands eligible for re-mining. Utah intends to revise its program to remain consistent with the Federal Program under SMCRA.

This document gives the times and locations that the Utah program and the 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.], August 6, 2009. If requested, we will hold a public hearing on the amendment on August 3, 2009. We will accept requests to speak until 4 p.m. [m.d.t.] on July 22, 2009.

**ADDRESSES:** You may submit comments by any of the following three methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. The proposed rule has been assigned Docket ID: OSM-2009-0005. If you would like to submit comments through the Federal

eRulemaking Portal, go to <http://www.regulations.gov> and do the following. Click on the "Advanced Docket Search" button on the right side of the screen. Type in the Docket ID "OSM-2009-0005" and click the "Submit" button at the bottom of the page. The next screen will display the Docket Search results. If you click on "OSM-2009-0005" you can view the proposed rule and submit a comment. You can also view supporting material and any comments submitted by others.

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

*U.S. Postal Service:* James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, P.O. Box 46667, Denver, CO 80201-46667.

*Instructions:* 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:* In addition to obtaining copies of documents at <http://www.regulations.gov>, information may also be obtained 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 OSM's Denver Office.

James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3320, Denver, CO 80202, (303) 293-5015, [jfulton@osmre.gov](mailto:jfulton@osmre.gov).

John Baza, Director, Utah Division of Oil, Gas and Mining, 1594 West North Temple, Suite 1210, Salt Lake City, UT 84116, 801-538-5334, [johnbaza@utah.gov](mailto:johnbaza@utah.gov).

#### FOR FURTHER INFORMATION CONTACT:

James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3320, Denver, CO 80202, (303) 293-5015, [jfulton@osmre.gov](mailto:jfulton@osmre.gov).

#### SUPPLEMENTARY INFORMATION:

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

## I. Background on the Utah 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 Utah program on January 21, 1981. You can find background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program in the January 21, 1981, **Federal Register** (46 FR 5899). You can also find later actions concerning Utah's program and program amendments at 30 CFR 944.15 and 944.30.

## II. Description of the Proposed Amendment

By letter dated May 19, 2009, Utah sent us a proposed amendment to its program (SATS # UT-046-FOR; Docket ID No. OSM-2009-0005) under SMCRA (30 U.S.C. 1201 *et seq.*). Utah sent the amendment at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

Specifically, Utah proposes to delete Utah Code Annotated (UCA) 40-10-11(5)(c) and UCA 40-10-17(6). These subsections contain repeal dates for UCA 40-10-11(5) and UCA 40-10-17(2)(t)(ii). By deleting these repeal dates, the Division would retain provisions that are slated to expire. These provisions pertain to permit eligibility and revegetation requirements on lands eligible for re-mining.

OSM deleted corresponding repeal dates in the December 20, 2006 changes to SMCRA (H.R. 6111, Tax Relief and Health Care Act of 2006). Through the deletion in SMCRA Sec. 510(e), OSM retained the authority of 510(e) and 515(b)(20)(B), which were also slated to expire.

### 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 Utah program.

#### *Electronic or Written Comments*

Send your written or electronic comments to OSM at the address given above. If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent Tribal or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (*see DATES*) or sent to an address other than those listed above (*see ADDRESSES*) will be included in the docket for this rulemaking and considered.

*Public Availability of Comments:* Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available in the electronic docket for this rulemaking at <http://www.regulations.gov>. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### **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 July 22, 2009. If you are disabled and need reasonable accommodation 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. If only one person expresses an interest, a public meeting rather than a hearing may be held, with the results included in the docket for this rulemaking.

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.

### 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. 4321 *et seq.*).

#### *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. 3501 *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), of 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.
- 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 944**

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 29, 2009.

**Allen D. Klein,**

*Regional Director, Western Region.*

[FR Doc. E9-15971 Filed 7-6-09; 8:45 am]

**BILLING CODE P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 80**

[EPA-HQ-OAR-2005-0161; FRL-8927-3]

RIN 2060-A081

### **Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program; Extension of Comment Period**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The U.S. Environmental Protection Agency (“EPA”) is announcing an extension of the public comment period for the proposed rule “Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program” (the proposed rule is hereinafter referred to as “RFS2”). EPA published a notice of proposed rulemaking, which included a request for comment, in the **Federal Register** on May 26, 2009. The public comment period was to end on July 27, 2009—60 days after publication in the **Federal Register**. The purpose of this document is to extend the comment period an additional 60 days until September 25, 2009. This extension of the comment period is provided to allow the public additional time to provide comment on the proposed rule.

**DATES:** The comment period for the proposed rule published May 26, 2009 (74 FR 24904) is extended. Written comments must be received on or before September 25, 2009.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2005-0161, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

- *E-mail:* [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).

- *Mail:* Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.

- *Hand Delivery:* EPA Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20004. Such deliveries are only accepted during the Docket’s normal

hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OAR-2005-0161. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. For additional instructions on submitting comments, please refer to the notice of proposed rulemaking (Section XI, Public Participation, of the **SUPPLEMENTARY INFORMATION** section of the proposed rulemaking document).

#### **How Can I Access the Docket?**

All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA West,