

**§ 2200.209 [Amended]**

- 28. Section 2200.209 is amended by:
  - a. Removing the word “Chief” in the last sentence of paragraph (f) and adding, in its place, the words “Chief Administrative Law Judge”.
  - b. Adding a hyphen between the numeral “21” and the word “day” in the last sentence of paragraph (g).

**PART 2203—REGULATIONS IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT**

- 29. The authority citation for part 2203 continues to read as follows:

**Authority:** 29 U.S.C. 661(g); 5 U.S.C. 552b(d)(4); 5 U.S.C. 552b(g).

**§ 2203.2 [Amended]**

- 30. Section 2203.2 is amended by removing “, the Deputy General Counsel,” in the definition of “General Counsel.”

**§ 2203.3 [Amended]**

- 31. Section 2203.3 is amended by adding the word “that” between the words “person” and “are” in paragraph (b)(4).

**PART 2204—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN PROCEEDINGS BEFORE THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

- 32. The authority citation for part 2204 continues to read as follows:

**Authority:** Sec. 203(a)(1), Pub. L. 96–481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)); Pub. L. 99–80, 99 Stat. 183.

**§ 2204.102 [Amended]**

- 33. Section 2204.102 is amended by removing “661(i)” in paragraph (d) and adding, in its place, “661(j)”.

**§ 2204.105 [Amended]**

- 34. Section 2204.105 is amended by removing “§ 2200.34(d)” in paragraph (c) and adding, in its place, “§ 2200.37(d)”.

**§ 2204.108 [Amended]**

- 35. Section 2204.108 is amended by removing “661(i)” in the first sentence and adding, in its place, “661(j)”.

[FR Doc. E9–28845 Filed 12–4–09; 8:45 am]

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

**SUMMARY:** We are approving an amendment to the Utah regulatory program (the “Utah program”) under the Surface Mining Control and Reclamation Act of 1977 (“SMCRA” or “the Act”). Utah proposed revisions to statutes pertaining to remining. Utah revised its program to remain consistent with the Federal Program.

**DATES:** *Effective Date:* December 7, 2009.

**FOR FURTHER INFORMATION CONTACT:**

James F. Fulton, Denver Field Division Chief. *Telephone:* (303) 293–5015.

*Internet address:* [jfulton@osmre.gov](mailto:jfulton@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Utah Program
- II. Submission of the Proposed Amendment
- III. Office of Surface Mining Reclamation and Enforcement’s (OSM’s) Findings
- IV. Summary and Disposition of Comments
- V. OSM’s Decision
- VI. 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 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. Submission of the Proposed Amendment**

By letter dated May 19, 2009, Utah sent us an amendment to its program (SATS number: UT–046–FOR, Administrative Record ID number: OSM–2009–0005–0002) under SMCRA (30 U.S.C. 1201 *et seq.*). Utah sent the amendment at its own initiative. The provisions of the Utah Code Annotated that Utah proposed to revise were: § 40–10–11(5) and § 40–10–17(6).

We announced receipt of the proposed amendment in the July 7, 2009, **Federal Register** (74 FR 32089). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment’s adequacy (Administrative Record No. OSM–2009–0005–0001). We did not hold a public hearing or meeting because no one requested one. The public comment period ended on August 6, 2009. We received one comment from a Federal agency (discussed under “IV. Summary and Disposition of Comments”).

**III. OSM’s Findings**

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment.

Utah proposed deletions from two statutory provisions at UCA § 40–10–11(5)(c) and § 40–10–17(6). These deletions correspond to revisions that were made to SMCRA on December 20, 2006 (HR 6111, Tax Relief and Health Care Act of 2006). The language deleted from SMCRA contained a termination date for two remining provisions. Utah has proposed to delete its corresponding termination dates, thereby retaining its remining provisions which were also slated to expire. As a result of these changes, Utah’s Program remains consistent with the Federal Program.

Deleted UCA subsection 40–10–11(5)(c) corresponded to prior SMCRA § 510(e). In the December 20, 2006 revisions to SMCRA, Congress deleted the termination provision in § 510(e) pertaining to both § 510(e) and 515(b)(20)(B). The Utah remining provision to be retained through the deletion of this termination date is UCA § 40–10–11(5), which corresponds to the remaining portions of SMCRA section 510(e).

Deleted UCA subsection 40–10–17(6) also corresponded to the termination date under prior SMCRA § 510(e). The Utah remining provision to be retained through the deletion of this termination date is UCA § 40–10–17(2)(t)(ii). This part corresponds to SMCRA § 515(b)(20)(B).

These changes directly correspond to revisions made to SMCRA on December 20, 2006. The language retained through these changes is the same as or similar to the corresponding Federal language. For these reasons, we find these changes to be in accordance with SMCRA and approve them.

#### IV. Summary and Disposition of Comments

##### *Public Comments*

We asked for public comments on the amendment (Administrative Record Document ID No. OSM-2009-0005-0001), but did not receive any.

##### *Federal Agency Comments*

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Utah program (Administrative Record Document ID No. OSM-2009-0005-0003).

We received one comment from the Bureau of Land Management (BLM) dated June 4, 2009 (Administrative Record Document ID No. OSM-2009-0005-0004). The BLM reviewed the amendment and found it to be acceptable because the changes would modify the Utah Program to match the current provisions of SMCRA.

##### *Environmental Protection Agency (EPA) Concurrence and Comments*

Under 30 CFR 732.17(h)(11)(i), OSM requested comments on the amendment from the EPA (Administrative Record Document ID No. OSM-2009-0005-0003). The EPA did not respond to our request.

##### *State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On May 22, we requested comments on Utah's amendment (Administrative Record Document ID No. OSM-2009-0005-0003). By letter dated June 10, 2009, the Utah State Historic Preservation Officer stated that he had no comment concerning the proposed regulation changes (Administrative Record ID No. OSM-2009-0005-0005).

#### V. OSM's Decision

Based on the above findings, we approve Utah's May 19, 2009 amendment.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 944, which codify decisions

concerning the Utah program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrates that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

##### *Effect of OSM's Decision*

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any change of an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any changes to approved State programs that are not approved by OSM. In the oversight of the Utah program, we will recognize only the statutes, regulations and other materials we have approved, together with any consistent implementing policies, directives and other materials. We will require Utah to enforce only approved provisions.

#### VI. 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 (Regulatory Planning and Review).

##### *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, and 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 CFR 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) *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: September 18, 2009.

**Allen D. Klein,**  
*Regional Director, Western Region.*

■ For the reasons set out in the preamble, 30 CFR part 944 is amended as set forth below:

**PART 944—UTAH**

■ 1. The authority citation for part 944 continues to read as follows:

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

■ 2. Section 944.15 is amended in the table by adding a new entry in chronological order by “Date of Final Publication” to read as follows:

**§ 944.15 Approval of Utah regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
May 19, 2009	December 7, 2009	UCA § 40–10–11, 40–10–17/Deletion of repeal dates for remining provisions.

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**DEPARTMENT OF THE TREASURY**

**31 CFR Part 30**

**RIN 1505–AC09**

**TARP Standards for Compensation and Corporate Governance**

**AGENCY:** Domestic Finance, Treasury.

**ACTION:** Interim final rule; correction.

**SUMMARY:** This document contains corrections to the preamble of an interim final rule that was published in the **Federal Register** on Monday, June 15, 2009 (74 FR 28394), relating to certain standards for compensation and corporate governance applicable to financial institutions receiving funds under the Troubled Assets Relief Program (TARP).

**FOR FURTHER INFORMATION CONTACT:**  
Office of Domestic Finance, Treasury (202) 927–6618 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The interim final rule the preamble of which is subject to these corrections is under section 111 of the Emergency Economic Stabilization Act of 2008, as amended.

**Need for Correction**

As published, the preamble to the interim final rule contains errors that may prove to be misleading and are in need of correction.

**Correction of Publication**

Accordingly, the publication of the interim final rule, which was the subject of FR Doc. E9–13868, published on June 15, 2009 (74 FR 28394), is corrected as follows:

1. On page 28399, column 3, in the preamble under the heading **SUPPLEMENTARY INFORMATION**, the first paragraph, line 26 the language “Section 30.10 (Q–10) of the Interim Final Rule states that TARP recipients will be subject during the TARP period to the bonus limitation requirements based on the total amount of financial assistance outstanding under the TARP.” is corrected to read “Section 30.10 (Q–10) of the Interim Final Rule states that TARP recipients will be subject during the TARP period to the bonus limitation requirements based on the gross amount of all financial assistance provided to the TARP recipient, valued at the time the financial assistance was received.”

2. On page 28403, column 2, in the preamble under the heading **Supplementary Information**, the carryover paragraph, line 33 the language “(15) certain employees named in the certification are the CEOs and most highly compensated employees for