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.

IV. Procedural Determinations

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).

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the Federal Register indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 18, 2010.

Allen D. Klein,
Director, Western Region.

SUPPLEMENTARY INFORMATION: In the "Rules and Regulations" section of this Federal Register, EPA is authorizing the changes by an immediate final rule (except with respect to the zinc fertilizer rule). EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect adverse comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written adverse comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take immediate effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you should do so at this time.

With respect to the zinc fertilizer rule (checklist 200), we think that there may be adverse comments that oppose the Federal authorization of the State for this rule. Thus, we are not including the authorization of the zinc fertilizer rule within the immediate final rule. Rather, we are proposing to authorize Rhode Island for the zinc fertilizer rule in this proposed rule. Any approval of Rhode Island to implement the zinc fertilizer rule will occur only through a later separate final rule, which will be issued only after considering any public comments. Anyone wishing to comment on our proposal to authorize Rhode Island for the zinc fertilizer rule must also do so at this time.

We are proposing to authorize Rhode Island for the zinc fertilizer rule because, through Rules 2.2 C and 2.2 H, Rhode Island has incorporated by reference the Federal zinc fertilizer rule exactly. When a State incorporates by reference Federal requirements exactly, the State is being equivalent and consistent with the Federal rule. Any commenter opposed to EPA’s adoption of the zinc fertilizer rule should have addressed his or her comments to the EPA prior to the Federal adoption of the rule. Any commenter opposed to Rhode Island’s adoption of the rule should have addressed his or her comment to Rhode Island before the State adopted the rule. While Rhode Island has the right to be more stringent and not adopt the rule, Rhode Island also has the right not to be more stringent and to adopt the rule. Commenters wishing a State to be more stringent should make sure to
submit their comments to the State, rather than waiting to ask EPA not to authorize the State for the rule.


H. Curtis Spalding,
Regional Administrator, EPA New England.

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