

(c) *When must I conduct a seismic reassessment?* You must conduct a seismic reassessment of each of your California OCS platforms in its current condition by [Insert date that is 3 years after the date the final rule is published in the **Federal Register**]. You must also conduct a seismic reassessment when a reassessment initiator occurs. Reassessment initiators are changes in the platform status which result in a significant change in demand, capacity, or consequence of the platform's failure, such as, but not limited to:

(1) Functional or operational changes which result in significantly higher loads than in the original design (e.g., new waterflood operations, additional tanks, or crew quarters, etc.).

(2) Significant damage to primary structural members or joints found during an inspection.

(3) The availability of credible new seismic data that would indicate significantly higher loads than those used in the original design criteria.

(4) Significant changes in the original design criteria or methodologies that would negatively affect the platform. An example of this type of significant change is the evolution of the tubular joint equation.

(5) A change from an unmanned platform to a manned platform.

(d) *What are the criteria for a seismic reassessment?* Before you conduct the seismic reassessment, you must submit your plan for analyzing the structure to the Regional Supervisor for approval. In addition:

(1) For manned platforms, you must demonstrate that the platform in its current condition can withstand a median 1000-year seismic event without loss of global structural stability. The ultimate strength of all undamaged members, joints and piles must be considered and, if necessary, safety factors may be reduced to 1.0.

(2) For unmanned platforms, you must demonstrate that the platform in its current condition can withstand a median 500-year seismic event without loss of global structural stability. The ultimate strength of all undamaged members, joints, and piles must be considered, and if necessary, safety factors may be reduced to 1.0.

(3) The Regional Supervisor may accept a probabilistic analysis as an alternative to the analyses required in paragraphs (d)(1) or (d)(2) of this section. The probabilistic analysis must address the effects of uncertainty and bias in loading and resistance. Before using this method, you must obtain approval for your analysis criteria from the Regional Supervisor.

(4) Topsides and appurtenances must withstand the seismic loads from paragraphs (d)(1) or (d)(2) of this section and be in conformance with the seismic provision of API RP 2A-WSD.

(5) You must conduct a site-specific study under 30 CFR 250.139 based on soil borings and geophysical data taken on or near the platform vicinity, using the best available technology. You may use a study previously conducted. An MMS approved independent peer review panel must review the study.

(e) *Does a third party need to verify the seismic reassessment?* You must use a Certified Verification Agent (CVA) approved by the MMS using the qualification standards in § 250.132(b)(1)(ii) to verify the analyses required in paragraphs (d)(1) through (d)(4) of this section. You must submit the CVA's final report to the Regional Supervisor. It must describe the analysis process and material reviewed, summarize the findings, and include a recommendation to the Regional Supervisor. The recommendation must advise the Regional Supervisor to either accept, request modifications, or reject the reassessment.

(f) *What if my platform does not pass the seismic reassessment?* If your structure does not meet the reassessment criteria, you must contact the Regional Supervisor for approval to initiate one or more mitigation actions. Mitigation actions are modifications to the structure or to operational procedures that reduce loads, increase capacities, or reduce consequences.

**Editorial Note:** This document was originally published at 62 FR 31538-31541, Tuesday, June 10, 1997, and is being reprinted in its entirety because of typesetting errors.

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 944

[SPATS No. UT-035-FOR]

#### Utah Regulatory Program and Utah Abandoned Mine Land Reclamation Plan

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

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

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is

announcing receipt of a proposed amendment to the Utah regulatory program and Utah abandoned mine land reclamation (AMLR) plan (hereinafter, the "Utah program and plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions and addition of statutes pertaining to the definition for "adjudicative proceeding"; schedule of applicant's mining law violations and remaining operation violations resulting from unanticipated events or conditions; location of informal conferences; performance standards for all coal mining and reclamation operations; requirements regarding surface effects of underground coal mining, repair or compensation for damage, and replacement of water; contest of violation or amount of civil penalty; and lands and waters eligible for expenditure of AMLR funds. The amendment is intended to revise the Utah program to be consistent with SMCRA and to improve operational efficiency.

**DATES:** Written comments must be received by 4:00 p.m., m.d.t., July 14, 1997. If requested, a public hearing on the proposed amendment will be held on July 8, 1997. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t., June 30, 1997.

**ADDRESSES:** Written comments should be mailed or hand delivered to James F. Fulton at the address listed below.

Copies of the Utah program and plan, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Denver Field Division.

James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3320, Denver, Colorado 80202-5733.

**FOR FURTHER INFORMATION CONTACT:** James F. Fulton, Chief, Denver Field Division, Telephone: (303) 844-1424.

#### SUPPLEMENTARY INFORMATION:

##### I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program; on June 3, 1983, the Secretary approved the Utah plan. General background information on the Utah program and plan, including the Secretary's findings, the disposition of

comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, and June 3, 1983, publications of the **Federal Register** (46 FR 5899 and 48 FR 24876). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30. Subsequent actions concerning Utah's plan amendments can be found at 30 CFR 944.25.

## II. Proposed Amendment

By letter dated May 27, 1997 (administrative record No. UT-1090), Utah submitted a proposed amendment to its program and plan pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Utah submitted the proposed amendment in response to required program amendments at 30 CFR 944.16 (e) through (i), in response to a June 5, 1996, letter (administrative record No. UT-1083) that OSM sent to Utah in accordance with 30 CFR 732.17(c), and at its own initiative. The provisions of the coal mining and reclamation statute that Utah proposed to revise and add were: Utah Code Annotated (U.C.A.) 40-10-3(1), definition for "adjudicative proceeding"; U.C.A. 40-10-11 (3) and (5), schedule of applicant's mining law violations and remining operation violations resulting from unanticipated events or conditions; U.C.A. 40-10-13(2), location of informal conferences; U.C.A. 40-10-17(2), (3), and (4), performance standards for all coal mining and reclamation operations; U.C.A. 40-10-18 (1) through (15), 18.1, and 18.2, requirements regarding surface effects of underground coal mining, repair or compensation for damage, and replacement of water; U.C.A. 40-10-20(2)(e), contest of violation or amount of civil penalty; and U.C.A. 40-10-25(6), lands and waters eligible for expenditure of AMLR funds.

Specifically, Utah proposes at U.C.A. 40-10-3(1) (a) and (b) that "adjudicative proceeding" means (a) a division or board (Division or Board of Oil, Gas and Mining) action or proceeding "determining" (rather than "that determines") the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, permit, or license; "or (b) judicial review of a division or board action or proceeding specified in Subsection (a)."

Utah proposes at U.C.A. 40-10-11(3) that an applicant shall file with his permit application a schedule listing, among other things, any and all notices of violation of "the Surface Mining Control and Reclamation Act of 1977 or

its implementing regulations." This proposed rule further specifies that the Division shall not issue a permit where the above-described schedule or other information available to the Division indicates that any surface coal mining operation owned or controlled by the applicant is currently in violation of U.C.A. 40-10 or other laws "and regulations" referred to in U.C.A. 40-10-11(3). Utah proposes at U.C.A. 40-10-11(5)(a) that after October "24" (rather than "14"), 1992, the permit issuance prohibition of U.C.A. 40-10-11(3) does not apply if the violation resulted from an unanticipated event or condition that occurred at a surface coal mining operation on lands eligible for remining under a permit held by the person making the application.

Utah proposes at U.C.A. 40-10-13(2)(b) that informal conferences to discuss objections to proposed initial or revised permit applications shall be conducted in accordance with the procedures described in "this" subsection (b) and that the conference "shall," not "may," be held in the locality of the coal mining and reclamation operation if requested within a reasonable time after written objections or request for an informal conference are received by the Division.

Utah proposes in the coal mining and reclamation operation performance standards at U.C.A. 40-10-17(2)(j)(ii)(B), (2)(p) (ii) and (iii), (3) (a) and (c), and (4) and (4) (a), and (d) to clarify that other rules that are cited and are referred to as "this subsection" are specific rule subsections included within U.C.A. 40-10-17.

Utah proposes at U.C.A. 40-10-18 (1) through 15(b), 18.1, and 18.2, various changes in punctuation, recodification, referenced rule citations, sentence structure, and word choice that are apparently intended to be editorial rather than substantive in their effect. Utah proposes at U.C.A. 40-10-18(15)(c) that "[s]ubject to the provisions of Section 40-10-29, the permittee shall promptly replace any state-appropriated water in existence prior to the application for a surface coal mining and reclamation permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations."

Utah proposes at U.C.A. 40-10-20(2)(e)(ii) that, if an operator fails to forward the amount of the civil penalty for a violation to the Division within 30 days of the civil penalty for a violation to the Division within 30 days of receipt of the results of the informal conference, the operator waives any opportunity for further review of the "fact of the"

violation or to contest the "amount of the civil penalty assessed for the" violation.

Utah proposes at U.C.A. 40-10-25(6)(b) that AMLR funds available under U.C.A. 40-10-25 may be used for reclamation when a bond or deposit for a "surface coal mining operation," rather than a "coal surface mining operation," on lands eligible for remining is forfeited and the amount of the bond or deposit is not sufficient to provide for adequate reclamation.

## III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h) and 30 CFR 884.15(a), OSM is seeking comments on whether the proposed amendment satisfies the applicable program and plan approval criteria of 30 CFR 732.15 and CFR 884.14. If the amendment is deemed adequate, it will become part of the Utah program and plan.

### 1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Denver Field Division will not necessarily be considered in the final rulemaking or included in the administrative record.

### 2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t., on June 30, 1997. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to

testify and persons present in the audience who wish to testify have been heard.

### 3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

## IV. Procedural Determinations

### 1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

### 2. Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) 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 or AMLR plans and plan amendments since each such program or plan 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. Decisions on proposed State AMLR plans and amendments are based on a determination of whether the submittal meets the requirements of title IV of SMCRA (30 U.S.C. 1231-1243) and the applicable Federal regulations at 30 CFR Parts 884 and 888.

### 3. National Environmental Policy Act

No environmental impact statement is required for this rule since 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)).

No environmental impact statement is required for this rule since agency decisions on proposed State AMLR plans and 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)).

### 4. 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.*).

### 5. Regulatory Flexibility Act

The Department of the Interior has determined 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 that 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. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. 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.

### 6. Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

### List of Subjects in 30 CFR Part 944

Abandoned mine reclamation programs, Intergovernmental relations, Surface mining, Underground mining.

Dated: June 5, 1997.

**Peter A. Rutledge,**

*Acting Regional Director, Western Regional Coordinating Center.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[OH104-2b; FRL-5840-9]

### Approval and Promulgation of Implementation Plans; Ohio Ozone Maintenance Plan

**AGENCY:** United States Environmental Protection Agency (USEPA).

**ACTION:** Proposed rule; Extension of the public comment period.

**SUMMARY:** On May 14, 1997 USEPA published a direct final rule (62 FR 26396) approving, and an accompanying proposed rule (62 FR 26463) proposing to approve a revision submitted on July 9, 1996 and January 31, 1997, to the ozone maintenance plans for the Dayton-Springfield Area (Miami, Montgomery, Clark, and Greene Counties), Toledo Area (Lucas and Wood Counties), Canton area (Stark County), Ohio portion of the Youngstown-Warren-Sharon Area (Mahoning and Trumbull Counties), Columbus Area (Franklin, Delaware, and Licking Counties), Cleveland-Akron-Lorain Area (Ashtabula, Cuyahoga, Lake, Lorain, Medina, Summit, Portage, and Geauga Counties), Preble County, Jefferson County, Columbiana and Clinton Counties. The revision was based on a request from the State of Ohio to revise the federally approved maintenance plan for those areas to provide the state and the affected areas with greater flexibility in choosing the appropriate ozone contingency measures for each area in the event such a measure is needed. The USEPA is announcing a 60 day extension of the public comment period on the May 14, 1997 proposed rule. In the rules section of this **Federal Register**, USEPA is delaying the effective date of the related final rule to allow for a 60 day extension of the public comment period on these maintenance plans.

**DATES:** Written comments on the May 14, 1997 proposed rule must be received by August 12, 1997.

**ADDRESSES:** Written comments should be sent to: J. Elmer Bortzer, Chief, Regulations Development Section, Air Programs Branch (AR-18), at the address below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 5, Regulation Development Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.