

Utah Administrative Procedures Act, and to revise the Utah program and Utah plan to be consistent with SMCRA, and improve operational efficiency.

EFFECTIVE DATE: July 19, 1995.

FOR FURTHER INFORMATION CONTACT:

James F. Fulton, Chief, Denver Field Division, Western Regional Coordinating Center, Telephone: (303) 672-5524.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program and the Utah Plan

On January 21, 1981, and June 3, 1983, the Secretary of the Interior conditionally approved the Utah program and approved the Utah plan. General background information on the Utah program and Utah plan, including the Secretary's findings, the disposition of comments, the conditions of approval of the Utah program, and approval of the Utah plan, 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 April 14, 1994, Utah submitted a proposed amendment to its program and plan pursuant to SMCRA (administrative record No. UT-917). The amendment consists of proposed revisions to the Utah Coal Mining and Reclamation Act of 1979. Utah submitted the proposed amendment in part to make its program and plan consistent with SMCRA and in part at its own initiative to make its program consistent with the Utah Administrative Procedures Act, thereby improving operational efficiency.

The Utah program provisions of the Utah Coal Mining and Reclamation Act of 1979 that Utah proposed to revise were: Utah Code Annotated (UCA) 40-10-2, purpose of Chapter 10; (2) UCA 40-10-3, definitions of new terms "adjudicative proceeding," "lands eligible for reining," and "unanticipated event or condition;" (3) UCA 40-10-6.5, rulemaking authority and procedure; (4) UCA 40-10-6.7, administrative procedures; (5) UCA 40-10-7, prohibition of financial interest in any coal mining operation; (6) UCA 40-10-8, coal exploration rules issued by the Division and penalty for violation; (7) UCA 40-10-10, permit applications; (8) UCA 40-10-11, Division action on the permit application; (9) UCA 40-10-

12, revision or modification of permit provisions; (10) UCA 40-10-13, informal conferences; (11) UCA 40-10-14, permit approval or disapproval, appeals, and further review; (12) UCA 40-10-15, performance bonds; (13) UCA 40-10-16, release of performance bond, surety, or deposit; (14) UCA 40-10-17, revegetation standards on lands eligible for reining; (15) UCA 40-10-18, operator requirements for underground coal mining; (16) UCA 40-10-19, information provided by the permittee to the Division and right of entry; (17) UCA 40-10-20, contest of violation or amount of penalty; (18) UCA 40-10-21, civil action to compel compliance with Utah's program and other rights not affected; (19) UCA 40-10-22, violations of Utah's program or permit conditions; (20) UCA 40-10-24, determination of unsuitability of lands for surface coal mining; and (21) UCA 40-10-30, judicial review of rules or orders. Utah also proposed to repeal UCA 40-10-4, "Mined land reclamation provisions applied," and UCA 40-10-31, "Chapter's procedures supersede Title 63, Chapter 46b." Finally, Utah proposed to repeal UCA 40-10-11(5), modification of permit issuance prohibition, and UCA 40-10-17(2)(t)(ii), revegetation standards on lands eligible for reining, effective September 30, 2004.

The Utah plan provisions of the Utah Coal Mining and Reclamation Act of 1979 that Utah proposed to revise were: (1) UCA 40-10-25, lands and water eligible for reclamation; (2) UCA 40-10-27, entry upon land adversely affected by past coal mining practices, State acquisition of land and public sale, and water pollution control and treatment plants; and (3) UCA 40-10-28, recovery of reclamation costs and liens against reclaimed land.

OSM announced receipt of the proposed amendment in the May 12, 1994, **Federal Register** (59 FR 24675), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT-926). Because no one requested a public hearing or meeting, none was held. The public comment period ended on June 13, 1994.

During its review of the amendment, OSM identified concerns relating to the provisions of the Utah Coal Mining and Reclamation Act of 1979 at UCA 40-10-3(1), definition of "adjudicative proceeding;" UCA 40-10-4, applicability of provisions of UCA 40-8; UCA 40-10-6.7 and Utah Administrative Rule (Utah Admin. R.) 641-100-100, administrative procedures; UCA 40-10-11(3) schedule

of applicant's mining law violations; UCA 40-10-11(5), reining operation violations resulting from unanticipated events or conditions; UCA 40-1013(2)(b), location of informal conferences; UCA 40-1014(6)(c), appeal to district court and further review; UCA 40-10-16(6), information conference or formal hearings concerning performance bond release decisions; UCA 40-10-18(4), damage resulting from underground coal mining subsidence; UCA 40-10-20(2)(e), contest of a violation or amount of a civil penalty; UCA 40-10-22(2)(b), cessation order, abatement notice or show cause order; UCA 40-10-22(3)(e), costs assessed against the permittee or any person having an interest that is or may be adversely affected by the notice or order of the Board of Oil, Gas and Mining (Board); and UCA 40-10-28 (1)(b) and (2)(b), recovery of reclamation costs and liens against reclaimed land. OSM notified Utah of the concerns by letter dated October 24, 1994 (administrative record No. UT-980).

Utah responded in a letter dated December 7, 1994, by submitting a revised amendment and additional explanatory information (administrative record No. UT-997). Utah proposed revisions to its Rules of Practice and Procedure of the Board at Utah Admin. R. 641-100-100, administrative procedures. Utah also proposed revisions to and additional explanatory information for UCA 40-10-14(6), appeal to district court and further review, UCA 40-10-4, mined land reclamation provisions applied, UCA 40-10-16(6), formal hearings or informal conferences, and UCA 40-10-22(2)(b), cessation orders, abatement notices, or show cause orders.

Based upon the revisions to and additional explanatory information for the proposed program and plan amendment submitted by Utah, OSM reopened the public comment period in the December 15, 1994, **Federal Register** (59 FR 64636, administrative record No. UT-1002). The public comment period ended on December 30, 1994.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds, with additional requirements, that the proposed program and plan amendment submitted by Utah on April 14, 1994, and as revised by it and supplemented with additional explanatory information on December 7, 1994, is no less effective than the corresponding Federal regulations and no less stringent than SMCRA. Accordingly, the Director approves the proposed amendment.