



DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

[SATS No. MT-051-FOR; Docket ID: OSM-2026-0034;
S1D1S SS08011000 SX064A000 256S180110;
S2D2S SS08011000 SX064A000 25XS501520]

Utah Regulatory Program

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 coal regulatory program (hereinafter, the Utah program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Utah submitted this proposed amendment on its own initiative, following the passage of Utah House Bill 419 (HB 419) during the 2026 legislative session. HB 419 amended Title 72B, chapter 5, part 8 of the Utah Code Annotated (UCA) and would require that a bond be posted by a plaintiff who obtains a “stay or other temporary remedy issued by an agency for an “environmental action.” HB 419 also states that these changes are effective as of May 6, 2026.

This document gives the times and locations that the Utah program and this

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 4:00 p.m., Mountain Daylight Time (M.D.T.) [**INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. If requested, we may hold a public hearing or meeting on the amendment on [**INSERT DATE 25 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. We will accept requests to speak at a hearing until 4:00 p.m., M.D.T. on [**INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

ADDRESSES: You may submit comments, identified by SATS No. UT-051-FOR, by any of the following methods:

- *Mail/Hand Delivery:* OSM, Attn: Jeffrey Fleischman, P.O. Box 11018, 100 East B Street, Room 4100, Casper, Wyoming 82602
- *Fax:* (307) 261-6552
- *Federal eRulemaking Portal:* The amendment has been assigned Docket ID: OSM-2026-0034. If you would like to submit comments, go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. 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: The full text of the program amendment is available for you to read at www.regulations.gov. For access to the docket to review copies of the Utah program, this amendment, a listing of any scheduled public hearings or meetings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Casper Field Office at:

Attn: Jeffrey Fleischman, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Casper, Wyoming 82602. Telephone: (307) 261-6550. Email: jfleischman@osmre.gov.

In addition, you may review a copy of the amendment during regular business hours at the following location:

Attn: Mick Thomas, Director, Department of Natural Resources, Division of Oil, Mining, and Gas, P.O. Box 145801, Salt Lake City, Utah 84114-5801. Telephone: (801) 538-5340
Email: mickthomas@utah.gov.

FOR FURTHER INFORMATION CONTACT:

Attn: Jeffrey Fleischman, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Casper, Wyoming 82602. Telephone: (307) 261-6550. Email: jfleischman@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

Subject to OSM's oversight, 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, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. *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 5913). You can also find later actions concerning the Utah program and program amendments at 30 CFR 944.15.

II. Description of the Proposed Amendment

By letter dated April 6, 2026 (Administrative Record No. UT-051-01), Utah sent an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). We found Utah's proposed amendment to be administratively complete on April 7, 2026. Utah submitted this proposed amendment following the passage of HB 419 during the 2026 Utah state legislative session, which proposed to update the language of its judicial code at 78B-5-828 of the Utah Code Annotated (UCA).

UCA 78B-5-828 applies to an "environmental action," and an "environmental action" is defined as a cause of action filed on or after May 10, 2011, that seeks judicial

review of a final agency action. This provision specifically applies to permits issued by the Department of Transportation, the School and Institutional Trust Lands Administration, or the Department of Natural Resources. At section UCA 78B-5-828(1)(a)(ii), permits actions under the Department of Natural Resources' - Division of Oil, Gas, and Mining - Coal Mining and Reclamation program - are exempted from the definition of "environmental actions."

UCA 78B-5-828 requires a plaintiff who obtains a preliminary injunction or administrative stay in an "environmental action" to post a bond with the court or relevant agency sufficient to compensate each defendant opposing the action for damages that each defendant may sustain as a result of the preliminary injunction or administrative stay. If the plaintiff does not ultimately prevail on the merits of the "environmental action," the court or relevant agency must execute the bond and award damages to each defendant who opposed the preliminary injunction or administrative stay and who was harmed because of it.

HB 419 removed section UCA 78B-5-828(1)(a)(ii), the provision which exempts permit actions from the coal program under the Utah Division of Oil, Gas, and Mining from the definition of "environmental actions." By removing this exemption, Utah proposed to make the Utah Program and its permit actions subject to this rule.

Finally, HB 419 added a contingency that affects the amended sections above, but that is not codified into the UCA. HB 419 stated in its "Effective date" clause, that HB 419 is effective as of May 6, 2026.

The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at www.regulations.gov.

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 State program.

Electronic or Written Comments

If you submit written or electronic comments on the proposed rule during the 30-day comment period, 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 State 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 (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 at any time. 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 4:00 p.m., M.D.T. on **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If

you are disabled and need reasonable accommodations 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 a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the 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.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866 - Regulatory Planning and Review and Executive Order 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of State program amendments is exempted from OMB review under Executive Order 12866. Executive

Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

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 944

Intergovernmental relations, Surface mining, Underground mining.

Marcelo Calle,
Acting Regional Director,
Unified Regions 5, 7-11

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