

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1624;

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2. In § 177.22, paragraph (a) is revised to read as follows:

§ 177.22 Definitions.

(a) *Country of origin.* For the purpose of this subpart, an article is a product of a country or instrumentality only if it is wholly the growth, product, or manufacture of that country or instrumentality or, in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce. The term "instrumentality" shall not be construed to include any agency or division of the government of a country, but may be construed to include such arrangements as the European Economic Community. For purposes of this section, an article is "wholly the growth, product, or manufacture" of a country or instrumentality if it is wholly obtained or produced (as defined in § 102.1(g) of this chapter) in that country or instrumentality, and a "new and different article of commerce" exists when under part 102 of this chapter, the country of origin of a good, which is produced in a country or instrumentality from foreign materials, is determined to be that country or instrumentality.

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George J. Weise,

Commissioner of Customs.

Approved: April 19, 1995.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 95-10856 Filed 5-4-95; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

New Mexico Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

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

SUMMARY: OSM is announcing receipt of a proposed amendment to the New Mexico regulatory program (hereinafter, the "New Mexico program") under the Surface Mining Control and

Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to and additions of rules pertaining to definitions, designation of lands unsuitable for surface coal mining, permit application information, minimum requirements for reclamation and operation plans in permit applications, review and approval or denial of permit applications and permit conditions, performance standards for coal exploration, and performance standards for surface coal mining operations. The amendment is intended to revise the New Mexico program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., m.d.t. June 5, 1995. If requested, a public hearing on the proposed amendment will be held on May 30, 1995. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t. on May 22, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Thomas Ehmett at the address listed below.

Copies of the New Mexico program, 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 Albuquerque Field Office.

Thomas E. Ehmett, Acting Director,
Albuquerque Field Office, Office of
Surface Mining Reclamation and
Enforcement, 505 Marquette Avenue,
NW., Suite 1200, Albuquerque, New
Mexico 87102

New Mexico Energy and Minerals
Department, Mining and Minerals
Division, 2040 South Pacheco Street,
Santa Fe, New Mexico 87505,
Telephone: (505) 827-5970

FOR FURTHER INFORMATION CONTACT:
Thomas Ehmett, Telephone: (505) 766-
1486.

SUPPLEMENTARY INFORMATION:

I. Background on the New Mexico Program

On December 31, 1980, the Secretary of the Interior conditionally approved the New Mexico program. General background information on the New Mexico program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the New Mexico program can be found in the December 31, 1980, **Federal Register** (45 FR 86459). Subsequent actions concerning New

Mexico's program and program amendments can be found at 30 CFR 931.11, 931.15, 931.16, and 931.30.

II. Proposed Amendment

By letter dated April 13, 1995, New Mexico submitted a proposed amendment to its program (administrative record No. NM-739) pursuant to SMCRA (U.S.C. 1201 *et seq.*). New Mexico submitted the proposed amendment in response to the required program amendments at 30 CFR 931.16(c), (d), and (f) through (s) (56 FR 67520, December 31, 1991, and 58 FR 65907, December 17, 1993) and at its own initiative. The provisions of the New Mexico rules that New Mexico proposes to revise are: Coal Surface Mining Commission (CSMC) Rule 80-1-5, definitions; CSMC Rule 80-1-4-15, designation of lands unsuitable for surface coal mining; CSMC Rule 80-1-7-14, permit application information; CSMC Rule 80-1-9-39, minimum requirements for reclamation and operation plans in permit applications; CSMC Rules 80-1-11-17, 80-1-11-19, 80-1-11-20, and 80-1-11-29, review of and approval or denial of permit applications and permit conditions; CSMC Rule 80-1-19-15, performance standards for coal exploration; and CSMC Rules 80-1-20-41 and 49, 80-1-20-82, 80-1-20-89, 80-1-20-93, 80-1-20-97, 80-1-20-116 and 117, 80-1-20-124, and 80-1-20-150, performance standards for surface coal mining operations.

Specifically, New Mexico proposes to revise CSMC Rule 80-1-5 to define "qualified laboratories" and "SMCRA;" CSMC Rule 80-1-4-15(b)(1) to require that New Mexico publish in its State Register receipt of a petition to designate lands unsuitable for surface coal mining; and CSMC Rule 80-1-7-14(c) to require that a permit application include information on all violations received pursuant to SMCRA.

Concerning minimum requirements for reclamation and operation plans in permit applications, New Mexico proposes to revise CSMC Rule 80-1-9-39(c) to require a permit application to include a description of measures that an operator would use to mitigate or remedy subsidence-related material damage to the land and occupied residential dwellings, structures related thereto, and noncommercial buildings where the damage resulted from underground mining operations conducted after October 24, 1992; and CSMC Rule 80-1-9-39(d) to delete in its entirety paragraph (d)(2), concerning an exception from subsidence control measures.

Concerning review and approval or disapproval of permit applications and permit conditions, New Mexico proposes to revise CSMC Rule 80-1-11-17 to add paragraph (c) concerning issuance of a permit for a surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant who is currently in violation of any provision of, among other things, New Mexico's Act or SMCRA; CSMC Rule 80-1-11-17(d) and 19(i), to require that New Mexico, when making a determination of whether a demonstration pattern of willful violations exists, also consider violations received pursuant to SMCRA by the applicant, anyone who owns or controls the applicant, or the operator named in the application; CSMC Rule 80-1-11-20(b)(1) to require that New Mexico use the criteria contained in 54 FR 18438, 18440-18441, to determine what specific unabated violations, delinquent penalties and fees, and ownership and control relationships apply when determining whether a permit was improvidently issued; CSMC Rule 80-1-11-20(b)(5) to reference CSMC Rule 80-1-11-20(b)(1) rather than CSMC Rule 80-1-7-14; and CSMC Rule 80-1-11-29(d) to require as a permit condition that the permittee submit to New Mexico any Federal cessation order issued in accordance with 30 CFR 843.11.

Concerning performance standards for coal exploration, New Mexico proposes to revise CSMC Rule 80-1-19-15(c)(2) to require that roads or other transportation facilities used for coal exploration activities comply with CSMC Rules 80-1-20-150(b) through (g) and 20-181(a) and (b); CSMC Rule 80-1-19-15(c)(3) to delete paragraph (iv) concerning the requirement that all existing roads used for coal exploration comply with the requirements of CSMC Rules 80-1-20-180 and 181; and CSMC Rule 80-1-19-15(c)(4) to require that, after exploration activities are completed, roads not to be retained for use under an approved land use shall comply with paragraphs (4)(i) or (4)(ii).

Concerning performance standards for surface coal mining operations, New Mexico proposes to revise CSMC Rule 80-1-20-41(e)(3)(i) to correct a typographical error; CSMC Rule 80-1-20-49(e) (1) through (9) to add a list of general requirements that apply to all temporary and permanent impoundments; CSMC Rules 80-1-20-82(a)(4) and 80-1-20-89(d)(2) to correct typographical errors; CSMC Rule 80-1-20-93-(a)-1), concerning design and construction of dams and embankments constructed of coal processing waste or

intended to impound such waste, to require that the design freeboard be adequate to resist overtopping by waves and sudden increases in storage volume and to delete a reference to the U.S. National Resource Conservation Service's (NRCS's) "Practice Standard 378" for determination of the allowed maximum water elevation; CSMC Rule 80-1-20-97 (b) and (c) to extend the protection of threatened and endangered species to areas disturbed by the conduct of reclamation operations; CSMC Rule 80-1-20-116(a) to reference (1) the general requirements for success of revegetation at CSMC Rule 80-1-20-111 and -120 and (2) the NRCS's "Technical Guide by Major Land Resource Area: Section II-E," concerning the technical procedures which are allowed for use in determining success standards for ground cover and productivity; CSMC Rule 80-1-20-116(b)(3) to clarify that (1) ground cover, production, or stocking shall be considered equal to the approved success standard when they are greater than or equal to 90 percent of the success standard and (2) statistical techniques for measuring success shall use an appropriate (parametric or nonparametric) one-tail test with a 90 percent confidence interval and a 10 percent alpha error; CSMC Rule 80-1-20-116(b)(7) so that its requirements for the measurement of revegetation success of trees and shrubs apply also to areas reclaimed for use as recreation and shelterbelts; CSMC Rule 80-1-20-117 so that its requirements for the measurement of success of tree and shrub stocking also apply to areas reclaimed for use as fish and wildlife habitat, recreation, and shelterbelts, and to require that trees and shrubs used in determining the success of stocking and the adequacy of plant arrangement shall have utility for the approved postmining land use; CSMC Rule 80-1-20-117(c), concerning areas reclaimed for use as commercial forest, at paragraph (c)(1) to require that the minimum stocking of trees or shrubs be determined by the State Forester on a permit-specific basis, at paragraph (c)(3) to reference CSMC Rule 80-1-20-117(b) for procedures to determine the number of trees or shrubs and ground cover, and at paragraph (c)(4) to reference CSMC Rules 80-1-20-116(b)(7) and 80-1-20-117(d)(2) for success standards applicable to tree and shrub stocking and ground cover; CSMC Rule 80-1-20-117(d)(3)(i), concerning the measurement of revegetation success of woody plants, to reference CSMC Rule 80-1-20-116(b) for determination of the success standard and to require that the standard be met with 90 percent

statistical confidence, using an appropriate (parametric or nonparametric) one-tail test with a 10 percent alpha error; CSMC Rule 80-1-20-124 to delete its existing requirements concerning repair of damage caused by subsidence and to add paragraphs (a), (b), and (c) which respectively, (1) require repair or compensation for material damage resulting from subsidence caused to any occupied residential dwellings and structures related thereto, or noncommercial building due to underground coal mining operations, (2) require replacement of any drinking, domestic, or residential water supply from a well or spring that existed prior to the application for a coal mining and reclamation permit, which has been affected by contamination, diminution, or interruption resulting from underground mining operations, and (3) state that nothing in this section shall be construed to prohibit or interrupt underground coal mining operations; and CSMC Rule 80-1-20-150 to delete paragraph (c) which prohibits vehicular use of fords or low water crossings by ancillary roads any time there is visible surface flow.

III. Public Comment Procedures

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

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 Albuquerque Field Office 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** by 4:00 p.m., m.d.t. on May 22, 1995. 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 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (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 since each such 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.

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 of 1969 (42 U.S.C. 4332(2)(C)).

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 this 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.

V. List of Subjects in 30 CFR Part 931

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 1, 1995.

Charles E. Sandberg,

Acting Regional Director, Western Regional Coordinating Center.

[FR Doc. 95-11153 Filed 5-4-95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO-17-1-6023B; FRL-5197-8]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri for the purpose of bringing about the attainment of the National Ambient Air Quality Standards (NAAQS) for lead. The SIP was submitted by the state to satisfy certain Federal requirements for an approvable nonattainment area lead SIP for the Doe Run primary lead smelter in Herculaneum, Missouri. In the final rules section of the **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal, because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received in writing by June 5, 1995.

ADDRESSES: Comments may be mailed to: Lisa V. Haugen, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen at (913) 551-7877.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: April 12, 1995.

Dennis Grams,

Regional Administrator.

[FR Doc. 95-10977 Filed 5-4-95; 8:45 am]

BILLING CODE 6560-50-P