

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 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 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

##### *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.

##### *Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable by law, 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.

##### *Executive Order 13132—Federalism*

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society and the environment from the adverse

effects of surface coal mining operations.” Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be “in accordance with” the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations “consistent with” regulations issued by the Secretary pursuant to SMCRA.

##### *National Environmental Policy Act*

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

##### *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.*).

##### *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.

##### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State or local governmental agencies; and (c) Does not have significant adverse effects on

competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

##### *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 906**

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 30, 2000.

**Brent T. Wahlquist,**

*Regional Director, Western Regional Coordinating Center.*

[FR Doc. 00–14356 Filed 6–6–00; 8:45 am]

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#### **DEPARTMENT OF THE INTERIOR**

#### **Office of Surface Mining Reclamation and Enforcement**

##### **30 CFR Part 931**

**[SPATS NO NM–039–FOR]**

##### **New Mexico Regulatory Program**

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

**ACTION:** Proposed rule; reopening and extension of public comment period on proposed amendment.

**SUMMARY:** Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of revisions pertaining to a previously 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 revisions to New Mexico’s proposed rules pertain to the definitions of “material damage” and “occupied residential dwelling and associated structures” and subsidence control during underground mining. 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 22, 2000.

**ADDRESSES:** You should mail or hand deliver written comments to Willis L. Gainer at the address listed below.

You may review copies of the New Mexico program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Albuquerque Field Office.

Willis L. Gainer, Director,  
Albuquerque Field Office, Office of  
Surface Mining Reclamation and  
Enforcement, 505 Marquette Avenue,  
NW., Suite 1200, Albuquerque, New  
Mexico 87102.

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

**FOR FURTHER INFORMATION CONTACT:**

Willis L. Gainer, Telephone: (505) 248-5096, Internet address:  
WGAINER@OSMRE.GOV.

**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 November 13, 1998, New Mexico submitted a proposed amendment (administrative record No. NM-804) to its program pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). New Mexico submitted the proposed amendment in response to the required program amendments at 30 CFR 931.16(o), (w), (x), (y) and (aa), and at its own initiative.

OSM announced receipt of the proposed amendment in the December 3, 1998 **Federal Register** (63 FR 66772), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. NM-808). Because no one requested a public hearing or meeting, none were

held. The public comment periods ended on January 4, 1999.

During our review of the November 13, 1998 amendment, OSM identified concerns and notified New Mexico of the concerns by letter dated January 7, 1999 (administrative record No. NM-815). New Mexico responded in a letter dated December 1, 1999, by submitting a revised amendment (administrative record No. NM-816).

We announced receipt of the proposed amendment in the December 22, 1999, **Federal Register** (63 FR 71698), and invited public comment on its adequacy (administrative record No. NM-818). The public comment period ended on January 21, 2000.

During our review of the December 1, 1999, revisions, OSM identified concerns and notified New Mexico of the concerns by letter dated March 28, 2000 (administrative record no. NM-827). New Mexico responded in a letter dated April 26, 2000, by submitting a revised amendment (administrative record No. NM-829).

New Mexico proposes further revisions to 19 NMAC 8.2 107.M(1) and O(2), definitions of "material damage" and "occupied residential dwelling and associated structures"; 19 NMAC 8.2 2071, subsidence control; and 19 NMAC 8.2 918.D, detailed plans of underground mine workings.

Specifically, New Mexico proposes to revise:

(1) The definitions of "material damage" and "occupied residential dwelling and associated structures" at 19 NMAC 8.2 107.M(1) and O(2) to be applicable to the rules at 19 NMAC 8.2 2067;

(2) Subsidence control at 19 NMAC 8.2 2071.A, by providing that the Director of the New Mexico program may (a) allow underground mining activities beneath or adjacent to beneath or adjacent to any perennial stream or impoundment having a storage volume of 20 acre-feet or more, if the Director, on the basis of detailed subsurface information, determines that subsidence will not cause material damage, or a reduction in a reasonably foreseeable use, to streams, water bodies and associated structures, and (b) if material damage occurs, suspend underground mining until the subsidence control plan is modified to ensure prevention of further material damage to such features or facilities;

(3) Subsidence control at 19 NMAC 8.2 2071.B, to (1) require that underground mining activities beneath any aquifer, perennial stream or water body that serves as a significant source of water supply to a public water system must be conducted so as to avoid

disruption of the aquifer and consequent exchange of ground water between the aquifer and other strata, and (2) to provide that the Director of the New Mexico program will prohibit mining in the vicinity of the aquifer or may limit the percentage of coal extraction to protect the aquifer and other water supplies unless a finding can be made, base on detailed documentation, that subsidence will not cause material damage to, or reduce the reasonable foreseeable use of, these features;

(4) Subsidence control at 19 NMAC 8.2 2071.C, to prohibit underground mining activities from being conducted beneath or in close proximity to any public buildings, including but not limited to churches, schools, hospitals, courthouses and government offices, unless the Director of the New Mexico program, on the basis of detailed subsurface information, determines that subsidence from those activities will not cause material damage, or reduce a reasonably foreseeable use, to these structures and specifically authorizes the mining activities;

(5) Subsidence control at 19 NMAC 8.2 2071.D, to correct a typographical error by replacing the term "permanent" with "perennial"; and

(6) Requirements for detailed plans of underground mine workings at 19 NMAC 8.2 918.D, by adding a paragraph that (1) requires that an permittee shall submit, consistent with a schedule approved by the Director of the New Mexico program, a detailed plan of actual underground workings that includes maps and descriptions, as appropriate, of significant features of the underground mine, including the size, configuration, and approximate location of pillars and entries, extraction ratios, measures taken to prevent or minimize subsidence and related damage, areas of full extraction, and other information required by the regulatory authority, and (2) provides, upon request of the operator, that the information submitted with the detailed plan may be held as confidential, in accordance with the requirements of 19 NMAC 8.2 1104.

In addition, New Mexico explained that the State contains few bodies of water 20-acre feet or more that are not man-made impoundments and that there are no naturally occurring bodies of water 20-acre feet or more in the coal fields in New Mexico. Therefore, New Mexico's proposed revisions at 19 NMAC 8.2 2071 refer to "impoundments" rather than "naturally occurring bodies of water 20-acre feet or more."

### III. Public Comment Procedures

#### *Written Comments*

Send your written comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. In the final rulemaking, we will not necessarily consider or include in the administrative record any comments received after the time indicated under **DATES** or at locations other than the Albuquerque Field Office.

#### *Electronic Comments*

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS No. NM-039-FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Albuquerque Field Office at (505) 248-5096.

#### *Availability of Comments*

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

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#### *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 931**

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 24, 2000.

**Brent T. Wahlquist,**

*Regional Director, Western Regional Coordinating Center.*

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