We will make a written
addresses listed under a meeting by contacting the person
discuss the amendment, please request
hearing. If you wish to meet with us to
public meeting rather than a public
opportunity to speak, we may hold a
Public Meeting
heard.

audience who wish to speak, have been
and the environment from the adverse
governments with regard to the
Executive Order 13132—Federalism
been met.

Executive Order 12988—Civil Justice
Reform

The Department of the Interior has
carried out 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
impact 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.


Brent T. Wahlquist,
Regional Director, Western Regional
Coordinating Center.

[FR Doc. 00–14356 Filed 6–6–00; 8:45 am]
BILLING CODE 4310–05–M

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.
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 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 0(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 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 these structures and specifically authorizes the mining activities; and (b) 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 shall notify New Mexico of any findings in this regard.

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 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 those 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 operator of underground mine 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.

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 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 931

Intergovernmental relations, Surface mining, Underground mining.


Brent T. Wahlquist,
Regional Director, Western Regional Coordinating Center.

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