

expects to refund with a long-term financing (such as a bond anticipation note), 120 percent of the weighted average reasonably expected economic life of the facilities financed; or

(ii) A principal purpose for the issuance of the refunding bonds is to make one or more new conduit loans.

(h) *Permissive retroactive application.* Except as provided in § 1.141-15(d) or (e) or paragraph (i) of this section, §§ 1.141-1 through 1.141-6, 1.141-7T through 1.141-8T, 1.141-9 through 1.141-14, 1.145-1 through 1.145-2, 1.150-1(a)(3) and the definition of bond documents contained in § 1.150-1(b) may be applied in whole, but not in part to—

(1) Outstanding bonds that are sold before January 19, 2001, and subject to section 141; or

(2) Refunding bonds sold on or after January 19, 2001, that are subject to section 141.

(i) *Permissive application of certain regulations pertaining to output contracts.* Section 1.141-7T(f)(4) and (5) may be applied to any bonds.

**Par. 7.** Section 1.142(f)(4)-1 is added to read as follows:

**§ 1.142(f)(4)-1 Manner of making election to terminate tax-exempt bond financing.**

(a) *Overview.* Section 142(f)(4) permits a person engaged in the local furnishing of electric energy or gas (a local furnisher) that uses facilities financed with exempt facility bonds under section 142(a)(8) and that expands its service area in a manner inconsistent with the requirements of sections 142(a)(8) and (f) to make an election to ensure that those bonds will continue to be treated as exempt facility bonds. The election must meet the requirements of paragraphs (b) and (c) of this section.

(b) *Time for making election—(1) In general.* An election under section 142(f)(4)(B) must be filed with the Internal Revenue Service on or before 90 days after the date of the service area expansion that causes bonds to cease to meet the requirements of sections 142(a)(8) and (f).

(2) *Date of service area expansion.* For the purposes of this section, the date of the service area expansion is the first date on which the local furnisher is authorized to collect revenue for the provision of service in the expanded area.

(c) *Manner of making election.* An election under section 142(f)(4)(B) must be captioned "ELECTION TO TERMINATE TAX-EXEMPT BOND FINANCING", must be signed under penalties of perjury by a person who has authority to sign on behalf of the local

furnisher, and must contain the following information—

(1) The name of the local furnisher;

(2) The tax identification number of the local furnisher;

(3) The complete address of the local furnisher;

(4) The date of the service area expansion;

(5) Identification of each bond issue subject to the election, including the complete name of each issue, the tax identification number of each issuer, the report number of the information return filed under section 149(e) for each issue, the issue date of each issue, the CUSIP number (if any) of the bond with the latest maturity of each issue, the issue price of each issue, the adjusted issue price of each issue as of the date of the election, the earliest date on which the bonds of each issue may be redeemed, and the principal amount of bonds of each issue to be redeemed on the earliest redemption date;

(6) A statement that the local furnisher making the election agrees to the conditions stated in section 142(f)(4)(B); and

(7) A statement that each issuer of the bonds subject to the election has received written notice of the election.

(d) *Effect on section 150(b).* Except as provided in paragraph (e) of this section, if a local furnisher files an election within the period specified in paragraph (b) of this section, section 150(b) does not apply to bonds identified in the election during and after that period.

(e) *Effect of failure to meet agreements.* If a local furnisher fails to meet any of the conditions stated in an election pursuant to paragraph (c)(6) of this section, the election is invalid.

(f) *Corresponding provisions of the Internal Revenue Code of 1954.* Section 103(b)(4)(E) of the Internal Revenue Code of 1954 set forth corresponding requirements for the exclusion from gross income of the interest on bonds issued for facilities for the local furnishing of electric energy or gas. For the purposes of this section any reference to sections 142(a)(8) and (f) of the Internal Revenue Code of 1986 includes a reference to the corresponding portion of section 103(b)(4)(E) of the Internal Revenue Code of 1954.

(g) *Effective dates.* This section applies to elections made on or after January 19, 2001.

**§ 1.142(f)(4)-1T [Removed]**

**Par. 8.** Section 1.142(f)(4)-1T is removed.

**Par. 9.** Section 1.150-5 is added to read as follows:

**§ 1.150-5 Filing notices and elections.**

(a) *In general.* Notices and elections under the following sections must be filed with the Internal Revenue Service, 1111 Constitution Avenue, NW, Attention: T:GE:TEB:O, Washington, DC 20224 or such other place designated by publication of a notice in the Internal Revenue Bulletin—

- (1) Section 1.141-12(d)(3);
- (2) Section 1.142(f)(4)-1; and
- (3) Section 1.142-2(c)(2).

(b) *Effective dates.* This section applies to notices and elections filed on or after January 19, 2001.

**§ 1.150-5T [Removed]**

**Par. 10.** Section 1.150-5T is removed.

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

**Par. 11.** The authority for part 602 continues to read as follows:

**Authority:** 26 U.S.C. 7805.

**Par. 12 .** In § 602.101, paragraph (b) is amended by adding an entry in numerical order to the table to read as follows:

**§ 602.101 OMB control numbers.**

\* \* \* \* \*

(b) \* \* \*

CFR part or section where identified and described	Current OMB control No.
* * * * *	* * * * *
1.142(f)(4)-1 .....	1545-1730
* * * * *	* * * * *

**Robert E. Wenzel,**  
*Deputy Commissioner of Internal Revenue.*

Approved: January 10, 2001.

**Jonathan Talisman,**  
*Assistant Secretary of the Treasury.*  
[FR Doc. 01-1412 filed 1-17-01; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 931**

[NM-041-FOR]

**New Mexico Regulatory Program**

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

**ACTION:** Final rule, approval of amendment.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is

approving 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). New Mexico proposed to recodify the New Mexico Surface Coal Mining Regulations. The amendment revised the State program to improve operational efficiency and ensure that the New Mexico Surface Coal Mining Regulations were codified according to the New Mexico administrative rules.

**EFFECTIVE DATE:** January 18, 2001.

**FOR FURTHER INFORMATION CONTACT:** Willis L. Gainer, Telephone: (505) 248-5096, Internet address: WGAINER@SMRE.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 September 22, 2000, New Mexico submitted a proposed amendment to its program (administrative record No. NM-840) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). New Mexico submitted the proposed amendment at its own initiative. New Mexico proposed to recodify the New Mexico Surface Coal Mining Regulations.

OSM announced receipt of the proposed amendment in the October 23, 2000, **Federal Register** (65 FR 63223), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. NM-842). Because no one requested a public hearing or meeting, none was held. The public comment period ended on November 22, 2000.

**III. Director's Findings**

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment, submitted by New Mexico on September 22, 2000, is no less effective than the corresponding Federal regulations and

no less stringent than SMCRA. Accordingly, the Director approves the proposed amendment.

*Minor Revisions to New Mexico's Rules*

New Mexico proposed recodification of previously-approved New Mexico Surface Coal Mining Regulations including revisions that are minor in nature, consisting of minor wording, editorial and punctuation changes. Specifically, New Mexico proposed to recodify its regulations from Title 19 (Natural Resources and Wildlife), Chapter 8, (Coal Mining), Part 2 (Coal Surface Mining) of the New Mexico Administrative Code (19 NMAC 8.2), Subparts 1 through 34 to Title 19 (Natural Resources and Wildlife), Chapter 8, (Coal Mining) of the New Mexico Administrative Code (19.8 NMAC), Parts 1 through 34. In addition to the renumbering and reformatting, New Mexico proposed to revise the history references after each section and added to the rule history at the end of each part. No substantive changes to the text of the regulations were proposed.

Because the proposed revisions to these previously-approved rules are minor in nature, the Director finds that these proposed New Mexico rules are no less effective than the Federal regulations at Title 30 (Mineral Resources), Chapter VII (Office of Surface Mining Reclamation and Enforcement, Department of the Interior), Parts 700 through 887. The Director approves the proposed recodification of New Mexico's rules.

**IV. Summary and Disposition of Comments**

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

*1. Public Comments*

OSM invited public comments on the proposed amendment (administrative record Nos. NM-841 and NM-842), but none were received.

*2. Federal Agency Comments*

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the New Mexico program (administrative record No. NM-841). None were received.

*3. Environmental Protection Agency (EPA) Concurrence and Comments*

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to

those provisions of the proposed amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that New Mexico proposed to make in its amendment pertain to air or water quality standards. Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (administrative record No. NM-841). It did not respond to OSM's request.

*4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Pursuant to 30 CFR 732.17(h)(4); OSM solicited comments on the proposed amendment from the SHPO and ACHP (administrative record No. NM-841). Neither SHPO nor ACHP responded to OSM's request.

**V. Director's Decision**

Based on the above finding, the Director approves New Mexico's proposed amendment as submitted on September 22, 2000.

The Federal regulations at 30 CFR part 931, codifying decisions concerning the New Mexico program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

**VI. Procedural Determination**

*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 (Regulatory Planning and Review).

*Executive Order 12630—Takings*

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

*Executive Order 13132—Federalism*

This rule does not have federalism implications. SMCRA delineates the rules 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, and section 503(a)(7) requires that state programs contain rules and regulations “consistent with” regulations issued by the Secretary pursuant to SMCRA.

*Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (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.

*National Environmental Policy Act*

This rule does not require an environmental impact statement because 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 (42 U.S.C. 4332(2)(C)).

*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, federal, state, or local government agencies, or geographic regions; 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.*

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on any local, State, or tribal governments or private entities.

**List of Subjects in 30 CFR Part 931**

Intergovernmental relations, Surface mining, Underground Mining.

Dated: January 3, 2001.

**Brent T. Wahlquist,**

*Regional Director, Western Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

**PART 931—NEW MEXICO**

1. The authority citation for part 931 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 931.15 is amended in the table by adding a new entry in chronological order by “Date of Final Publication” to read as follows:

**§ 931.15 Approval of New Mexico regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* * *	* * *	* * *
September 22, 2000 .....	January 18, 2001 .....	19.8 NMAC Parts 1 through 34 (recodification)