

taxpayer or applied against the amount of the offer if the offer is—

(i) Accepted to promote effective tax administration pursuant to § 301.7122–1(b)(3) of this chapter; or

(ii) Accepted based on doubt as to collectibility and a determination that collection of an amount greater than the amount offered would create economic hardship within the meaning of § 301.6343–1 of this chapter.

(3) Except as otherwise provided in this paragraph (b), the fee will not be refunded to the taxpayer if the offer is accepted, rejected, withdrawn, or returned as nonprocessable after acceptance for processing.

(c) *Person liable for the fee.* The person liable for the processing fee is the taxpayer whose tax liabilities are the subject of the offer.

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*  
[FR Doc. 02–28249 Filed 11–5–02; 8:45 am]  
BILLING CODE 4830–01–P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 948

[WV–092–FOR]

#### West Virginia Regulatory Program

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

**ACTION:** Proposed rule; reopening of public comment period.

#### SUMMARY:

We are reopening the public comment period on an amendment to the West Virginia surface mining regulatory program (the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The program amendment consists of changes to the Code of West Virginia (W. Va. Code) as contained in Senate Bill 603. We are reopening the comment period to provide an opportunity to review and comment on additional amendments to the W. Va. Code and the Code of State Regulations (CSR) provided by the State under Senate Bill 698. The amendments concern the Office of Coalfield Community Development, and relate to the West Virginia program.

This document gives the times and locations that the West Virginia program and the 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 p.m. (local time), December 6, 2002. If requested, we will hold a public hearing on the amendment on December 2, 2002. We will accept requests to speak at a hearing until 4:00 p.m. (local time), on November 21, 2002.

**ADDRESSES:** You should mail or hand deliver written comments and requests to speak at the hearing to Mr. Roger W. Calhoun at the address listed below.

You may review copies of the West Virginia program, this amendment, the previous 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 Charleston Field Office.

Mr. Roger W. Calhoun, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street, East, Charleston, West Virginia 25301, Telephone: (304) 347–7158. E-mail: [chfo@osmre.gov](mailto:chfo@osmre.gov).

West Virginia Department of Environmental Protection, 10 McJunkin Road, Nitro, West Virginia 25143, Telephone: (304) 759–0510. The proposed amendment will be posted at the West Virginia Department of Environmental Protection's Internet home page: <http://www.dep.state.wv.us>.

In addition, you may review copies of the proposed amendment during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, P.O. Box 886, Morgantown, West Virginia 26507, Telephone: (304) 291–4004 (By appointment only).

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 313 Harper Park Drive, Beckley, West Virginia 25801, Telephone: (304) 255–5265.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger W. Calhoun, Director, Charleston Field Office; Telephone: (304) 347–7158. Internet address: [chfo@osmre.gov](mailto:chfo@osmre.gov).

#### SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program  
II. Description of the Proposed Amendment  
III. Public Comment Procedures  
IV. Procedural Determinations

## I. Background on the West Virginia Program

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, “a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act\*\*\*; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.” See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981 **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia's program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

## II. Description of the Proposed Amendment

By letter dated May 21, 2001 (Administrative Record Number WV–1217), the West Virginia Department of Environmental Protection (WVDEP) sent us a proposed amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). The proposed amendment consists of changes to the W. Va. Code at chapters 22–3 (West Virginia Surface Coal Mining and Reclamation Act) and 5B–2A (Office of Coalfield Community Development) as contained in Senate Bill 603.

We announced the receipt and provided an opportunity to comment on the amendment in the June 20, 2001, **Federal Register** (66 FR 33032) (Administrative Record Number WV–1219).

By letter and electronic mail dated August 12, 2002, WVDEP sent us additional amendments that relate to its program as contained in Senate Bill 698 (Administrative Record Numbers WV–1325 and WV–1326). The amendment consists of changes to W. Va. Code 5B–2A and implementing regulations at CSR 145–8. Enrolled Senate Bill 698 was signed by the Governor on March 21, 2002.

The State's provisions at W. Va. Code 5B–2A and CSR 145–8 have not been previously approved by OSM. The proposed rules at CSR 145–8 implement

and help clarify the statutory provisions at W. Va. Code 5B-2A. There are many cross-references in these provisions to the State's surface mining program at W. Va. Code 22-3. In general, the State's provisions at W. Va. Code 5B-2A and CSR 145-8 appear to be outside the scope of the State's surface coal mining regulatory program, and, as such, may not require our approval before the State can implement them. However, due to the many cross-references to the State's surface mining program in these provisions, the proposed provisions may modify the approved program in some ways. Therefore, we are asking for public comment on whether or not the proposed provisions submitted on August 12, 2002, and the earlier revisions submitted on May 21, 2001, modify the approved West Virginia program in any way, and whether or not such modifications render the West Virginia program less stringent than SMCRA or less effective than the Federal regulations.

The new statutory amendments are summarized below.

#### 1. W. Va. Code 5B-2A. Office of Coalfield Community Development

In general, State Senate Bill 698 deletes W. Va. Code section 5B-2A-7, which required the Office of Coalfield Community Development (Office) to develop coalfield community development statements, and deletes references to such impact statements in sections 5B-2A-5, 8, 9 and 12. W. Va. Code is also amended by adding a subsection (b), which authorizes the promulgation of emergency rules at CSR 145-8 to incorporate the revisions to W. Va. Code 5B-2A.

#### 5B-2A-7. Coalfield Community Development Statement

Coalfield community development statement provisions are deleted in their entirety. This section required that the Office of Coalfield Community Development coordinate the development of a coalfield community development statement that, among other requirements, shall include an evaluation of the future of the community once mining operations are completed.

#### 5B-2A-5. Powers and Duties

Paragraph 5B-2A-5(2), which authorized the office to establish a procedure for developing and implementing coalfield community development statements, is deleted.

#### 5B-2A-8. Determining and Developing Needed Community Assets

Paragraph 5B-2A-8(a) is amended by deleting language that refers to the coalfield community development statement that was required by the deleted section 5B-2A-7. As amended, subsection 5B-2A-8(a) provides as follows:

The office shall determine the community assets that may be developed by the community, county or region to foster its viability when surface mining operations are completed.

Subsection 5B-2A-8(c) is amended by deleting a phrase that includes reference to the coalfield community development statement that was required by deleted section 5B-2A-7. As amended, subsection 5B-2A-8(c) provides that "The operator shall be required to prepare and submit to the office the information set forth in this subsection as follows."

Paragraph 5B-2A-8(d)(4), which referred to the determinations made during the development of the coalfield community development statement that was required by deleted section 5B-2A-7, is deleted.

#### 5B-2A-9. Securing Developable Land and Infrastructure

Subsection 5B-2A-9(a) is amended by deleting language that referred to the community development statement that was required by deleted section 5B-2A-7. As amended, subsection 5B-2A-9(a) provides as follows:

(a) The office shall determine the land and infrastructure needs in the general area of the surface mining operations.

Subsection 5B-2A-9(c) is amended by deleting a reference to the coalfield community development statement that was required by deleted section 5B-2A-7. As amended, 5B-2A-9(c) provides as follows:

(c) To assist the office the operator shall be required to prepare and submit to the office the information set forth in this subsection as follows:

Subsection 5B-2A-9(f) is amended by deleting a reference to the coalfield community development statement that was required by deleted section 5B-2A-7. As amended, 5B-2A-9(f) provides as follows:

The office may secure developable land and infrastructure for a development office or county through the preparation of a master land use plan for inclusion into a reclamation plan prepared pursuant to the provisions of section ten, article three, chapter twenty-two of this code. No provision of this section may be construed to modify requirements of article three of said chapter. Participation in a master land use plan is voluntary.

#### 5B-2A-12. Rulemaking

Paragraph 5B-2A-12(a)(2), which referred to the coalfield community development statement required by deleted section 5B-2A-7, is deleted.

Subsection 5B-2A-12(b) is new. This provision provides as follows:

The office is authorized to promulgate emergency rules, prior to the first day of July, two thousand two, to incorporate the revisions to this article enacted during the two thousand two regular legislative session.

The new regulatory revisions are summarized below.

#### 2. CSR 145-8. Community Development Assessment and Real Property Valuation Procedures for Office of Coalfield Community Development

##### 145-8-1. General

145-8-1.1. concerning Scope, is amended by deleting reference to coalfield community development statements and adding language concerning master land use plans. As amended, 145-8-1.1. provides as follows:

1.1. Scope. This rule establishes the procedure for the creation of community impact statements by operators, the process to develop coalfield community development procedures which include asset development goals and infrastructure needs, the criteria for the development of a master land use plan by local, county regional development or redevelopment authorities, and the procedure for establishing the value of property to assist property owners who desire to voluntarily sell their property to an operator.

##### 145-8-2. Definitions

145-8-2.1. definition of "Director" means the director of the office. This definition formerly defined "Chief."

145-8-2.3. definition of "Community Development Statement" is amended by deleting the term "statement" from the title of this definition and replacing that word with the word "Procedures." The definition is amended by deleting language related to the "statement" and adding language to read as follows:

2.3. Community Development Procedures—shall mean that the Office of Coalfield Community Development will incorporate and transfer community impact statement data with county governments and or economic development authorities as outlined by Section 5 of this rule.

145-8-2.5. definition of "Division." This definition is amended by deleting the word "division" in two places and replacing those words with the term "department."

145-8-2.6. definition of "Development Authority." This definition is new and provides that

“Development Authority shall mean the appropriate state, local, county or regional development or redevelopment authority.”

145–8–2.8. definition of “Infrastructure Component Standards.” This definition is new and provides as follows:

2.8. Infrastructure Component Standards—shall mean those standards developed by a development authority which are to be applied to the infrastructure needs as determined by the development authority and as included in a master land use plan to ensure proper implementation of the plan. The standards shall be specific to each plan.

145–8–2.11. definition of “Master Land Use Plan.” This definition is new and provides as follows:

2.11. Master Land Use Plan—shall mean a plan which addresses current and prospective uses for land which in whole or in part is or has been covered by a surface mining permit and which contains all the information required by section 6 of this rule.

145–8–2.12. definition of “Permit.” This definition has been amended by adding a reference to W. Va. Code 22–3–8. As amended, “permit” means a permit to conduct surface mining operations issued pursuant to W. Va. Code 22–3–8.

145–8–2.13. definition of “Plan.” This new definition provides that “plan” means “a master land use plan as defined in subsection 2.11 of this rule.”

145–8–2.14. definition of “Reclamation Plan.” This new definition provides that “reclamation plan” means “the reclamation plan established in W. Va. Code 22–3–10.”

#### 145–8–4. Community Impact Statement

145–8–4.2. has been amended by clarifying existing language and adding new language concerning when a community impact statement shall be filed. As amended, this provision is as follows:

4.2. For permits granted after June 11, 1999, a community impact statement shall also be filed by the operator within 90 days after the permit application is deemed by the department to be administratively complete, and within 90 days after the first five year incremental renewal date for all permits issued prior to June 11, 1999.

#### 145–8–5. Coalfield Community Development Procedures

The title of this section is amended by deleting the word “Statement” and adding, in its place, the word “Procedures.”

145–8–5.1. is amended by deleting a reference to a coalfield community development statement and adding language concerning a community

impact statement. As amended, this provision is as follows:

The office shall coordinate and share information outlined in the community impact statement with the county development authority when an operator applies for any permit with the department.

145–8–5.1.a. is deleted and concerned the development of a coalfield community development statement when multiple permit applications are applied for in a county or contiguous area of an adjacent county.

145–8–5.1.b. is deleted and concerned dividing a coalfield community development statement into smaller areas if it was impracticable to make a countywide statement.

145–8–5.2. is amended by deleting language concerning a coalfield community development statement and adding language requiring an operator to provide notice of its intent to mine. As amended this provision is as follows:

5.2. Within 30 days after the community impact statement from the operator applying for the permit is filed with the office, the operator shall distribute notice that property is intended to be mined by the operator applying for the permit.

145–8–5.2.a. is deleted and concerned providing notice to owners of interest in the property intended to be mined.

145–8–5.3.a. is amended by deleting a reference to the coalfield community development statement and adding the phrase “of the proposed mining activity.” As amended, this provision is as follows:

5.3. Within 30 days after the community impact statement from the operator applying for the permit is filed with the office, the operator shall notify individuals and business owners and operators in the affected communities of the proposed mining activity.

145–8–5.4. is amended by deleting reference to the Office of Coalfield Community Development and the coalfield community development statement. As amended, this provision is as follows:

5.4. A notice provided by the operator to affected persons and entities about coalfield community development shall contain the following information:

145–8–5.4.d. is amended by deleting language concerning preparing an initial community development statement or modifying an existing statement by the Office of Coalfield Community Development. As amended, the provision is as follows:

5.4.d. The notice shall inform its recipients that the office invites persons and entities in areas affected by the anticipated surface mining operations to submit written comments and other documentation to the chief [director] within 30 days after the date

of the notice about how their communities are anticipated to be affected by the planned surface mining operations and the intended postmining land use; and

145–8–5.4.e. is amended by deleting language concerning a draft or modified community development statement and language concerning the issuance of the draft or modified community development statement. As amended, this provision is as follows:

5.4.e. The notice shall inform its recipients that the community impact statements for the planned surface mining operations were filed within 180 days from the date of the notice, and that persons and entities in the affected communities shall have 30 days after the date to submit written comments to the director.

145–8–5.5. is amended by deleting language concerning a public meeting concerning the draft or modified community development statement. In addition, language is added that requires the office to deliver public comments to the development authority and assist in incorporating the community impact statement into the land use master plan. As amended, this provision is as follows:

5.5. After the close of the public comment period, the office will deliver public comments to the development authority and assist in the incorporating of the community impact statement into the land use master plan.

145–8–5.6. is amended by deleting a requirement that the Office of Coalfield Community Development shall determine what shall be contained in the coalfield community development statement. Language is added that requires the office to coordinate and transfer information to development authorities in the affected county. As amended, the provision is as follows:

5.6. The office shall coordinate and transfer information, findings and recommendations to development authorities in the county affected.

145–8–5.6.c.4. is amended by deleting the word “statement” and adding in its place the word “procedures.”

145–8–5.6.d. is amended by deleting the word “statement” and adding in its place the word “procedures.” In addition, the word “determine” is deleted and replaced by the word “recommended.” As amended this provision is as follows:

5.6.d. As part of the coalfield community development procedures, the office shall recommend the land and infrastructure needs in the county or counties in which the surface mining operations are being conducted, or any adjacent county.

145–8–5.7. is deleted, and required that the community development statement be completed within 180 days

following the public meeting or issuance of a surface mining permit.

145–8–5.8. is renumbered as 5.7. and amended by deleting references to the community development statement.

145–8–5.9. is deleted and concerned the requirement that the office prepare an action report as part of the coalfield community development statement.

#### 145.8.6. Master Land Use Plans

This section is new and provides as follows:

6.1. A master land use plan may be prepared by a development authority. If requested by a development authority, the office may assist in the preparation of a master land use plan.

6.2. A development authority must determine land and infrastructure needs within its jurisdiction as necessary in conjunction with its preparation of a master land use plan.

6.2.a. In making a determination of the land and infrastructure needs in its jurisdiction, the development authority shall evaluate at least the considerations set forth in subsection 5.6.e. of this rule. A development authority may satisfy this requirement by incorporating all or part of the determination of land and infrastructure needs of an area reflected in a community development statement [procedures] prepared in accordance with section 5 of this rule.

6.3. For any infrastructure needs identified by the development authority, consistent with the current and prospective uses described in the master land use plan, infrastructure component standards shall also be developed.

6.3.a. The infrastructure component standards developed by a development authority shall be approved by the appropriate county commission or commissions before such standards can be included in a master land use plan.

6.3.b. Before approving the infrastructure component standards, the county commission or commissions shall give notice to the public and provide a 30-day comment period.

6.4. Once a master land use plan has been prepared, the office shall review the plan. This review shall include an evaluation of the plan's impact on the development of economic and community assets and conformance with this rule.

6.5. A master land use plan shall be sufficiently complete to indicate its relationship to definite objectives of the development authority as to appropriate land uses and shall include at least the following:

6.5.a. The boundary of the area encompassed by the plan with a map showing the existing uses and conditions of the real property and any infrastructure components therein;

6.5.b. A land use plan showing the proposed uses of the area;

6.5.c. A statement of the proposed changes, if any, in zoning ordinances or maps, street and highway layouts, building codes and ordinances;

6.5.d. A site plan of the area;

6.5.e. A statement as to the kinds and number of additional public facilities or utilities which will be required to support the new land uses in the area after development;

6.5.f. A statement of the land and infrastructure needs as determined pursuant to subsection 6.2 of this rule which shall include a statement of infrastructure component standards; and

6.5.g. Any community impact statements and/or community development statements which may have been prepared and which e[ffect] any property within the boundaries of the master land use plan.

6.6. An operator may include, in a surface mining permit application, a master land use plan which addresses postmining land uses in the reclamation plan developed pursuant to W. Va. Code 22–3–10. An operator may amend a reclamation plan approved but not implemented or a reclamation plan pending approval by including a master land use plan.

6.6.a. Any modifications in the postmining land use during mining must be made in accordance with 38 CFR 2–7.3.a. and 3.28.

6.7. The master land use plan must be approved by the department as part of the operator's reclamation plan before the master land use plan may be implemented.

### 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.

#### Written Comments

Send your written or electric 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. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (*see DATES*). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Charleston Field Office may not be logged in.

#### Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS No. WV–092–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 Charleston Field Office at (304) 347–7158.

#### 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.

#### Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m. (local time), on December 6, 2002. If you are disabled and need special 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 12630—Takings*

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

##### *Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget 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 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 because each 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, 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 13211—Regulations That Significantly Affect The Supply, Distribution, Or Use Of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of

Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

##### *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 certifies 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, which 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. 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*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. 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 did not impose an unfunded mandate.

##### **List of Subjects in 30 CFR Part 948**

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 13, 2002.

**Vann Weaver,**

*Acting Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 02–28202 Filed 11–5–02; 8:45 am]

**BILLING CODE 4310–05–P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[IA 159–1159; FRL–7403–6]

#### **Approval and Promulgation of Implementation Plans; State of Iowa**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Iowa. This revision pertains to orders and permits issued by the state to control particulate matter (PM<sub>10</sub>) emissions from Holnam, Inc., and Lehigh Portland Cement Company, at Mason City (Cerro Gordo County), Iowa.

In the final rules section of the **Federal Register**, 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 relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives