

allocated deductions on Form MMS–2014. If you do not submit your proposal, you may be subject to civil penalties.

(f) If your payments for transportation under an arm's-length contract are not on a dollar-per-unit basis, you must convert whatever consideration is paid to a dollar-value equivalent.

(g) If your arm's-length sales contract includes a provision reducing the contract price by a transportation factor, do not separately report the transportation factor as a transportation allowance on Form MMS–2014.

(1) You may use the transportation factor in determining your gross proceeds for the sale of the product.

(2) You must obtain MMS approval before claiming a transportation factor in excess of 50 percent of the base price of the product.

**§ 206.58 What are my reporting requirements under an arm's-length transportation contract?**

You have the burden of demonstrating that your contract is arm's-length. You must submit to MMS a copy of your arm's-length transportation contract(s) and all subsequent amendments to the contract(s) within 2 months of the date MMS receives your Form MMS–2014 on which a transportation allowance is reported.

**§ 206.59 How do I calculate a transportation allowance under a non-arm's-length transportation arrangement?**

(a) This section applies where you or your affiliate do not have an arm's-length transportation contract, including situations where you or your affiliate provide(s) your own transportation services. Calculate your transportation allowance based on your or your affiliate's reasonable, actual costs for transportation during the reporting period using the procedures prescribed in this section.

(b) Your or your affiliate's actual costs include the costs allowed under § 206.111, except that:

(1) For the cost of carrying inventory as line fill under paragraph (b)(6)(ii) of that section you must use the value calculated under § 206.52 or § 206.53, as applicable; and

(2) For purposes of paragraphs (h) and (j) of that section, use [THE EFFECTIVE DATE OF THE FINAL RULE] instead of June 1, 2000.

**§ 206.60 What are my reporting requirements under a non-arm's-length transportation arrangement?**

All transportation allowances deducted under a non-arm's-length or no-contract situation are subject to monitoring, review, audit, and

adjustment. You must submit the actual cost information to support the allowance to MMS on Form MMS–4110, Oil Transportation Allowance Report, within 3 months after the end of the 12-month period to which the allowance applies.

**§ 206.61 What must I do if MMS finds that I have not properly determined value?**

(a) If MMS finds that you have not properly determined value, you must:

(1) Pay the difference, if any, between the royalty payments you made and those that are due, based upon the value MMS establishes; and

(2) Pay interest on the difference computed under 30 CFR 218.54.

(b) If you are entitled to a credit due to overpayment on Indian leases, see 30 CFR 218.53. The credit will be without interest.

**§ 206.62 May I ask MMS for valuation guidance?**

You may ask MMS for guidance in determining value. You may propose a value method to MMS. Submit all available data related to your proposal and any additional information MMS deems necessary. MMS will promptly review your proposal and provide you with a non-binding determination of the guidance you requested.

**§ 206.63 What are the quantity and quality bases for royalty settlement?**

(a) You must compute royalties on the quantity and quality of oil as measured at the point of settlement approved by BLM for the lease.

(b) If you determine the value of oil under §§ 206.52, 206.53 or 206.54 of this subpart based on a quantity or quality different from the quantity or quality at the point of royalty settlement approved by the BLM for the lease, you must adjust the value for those quantity or quality differences.

(c) You may not deduct from the royalty volume or royalty value actual or theoretical losses incurred before the royalty settlement point unless BLM determines that any actual loss was unavoidable.

**§ 206.64 What records must I keep and produce?**

(a) On request, you must make available sales, volume, and transportation data for production you sold, purchased, or obtained from the designated area. You must make this data available to MMS, Indian representatives, or other authorized persons.

(b) You must retain all data relevant to the determination of royalty value. Document retention and recordkeeping requirements are found at 30 CFR 207.5,

212.50, and 212.51. The MMS, Indian representatives, or other authorized persons may review and audit such data you possess, and MMS will direct you to use a different value if it determines that the reported value is inconsistent with the requirements of this subpart or the lease.

**§ 206.65 Does MMS protect information I provide?**

The MMS will keep confidential, to the extent allowed under applicable laws and regulations, any data or other information that you submit that is privileged, confidential, or otherwise exempt from disclosure. All requests for information must be submitted under the Freedom of Information Act regulations of the Department of the Interior, 43 CFR part 2.

[FR Doc. 06–1285 Filed 2–10–06; 8:45 am]

BILLING CODE 4310–MR–P

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 926**

[MT–025–FOR]

**Montana Regulatory Program**

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

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

**SUMMARY:** We are announcing the reopening and extension of the public comment period for a previously announced proposed amendment to the Montana regulatory program (hereinafter, the “Montana program”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Montana proposed revisions to, additions of, and deletions of rules about: Definitions; permit application requirements; application processing and public participation; application review, findings, and issuance; permit conditions; permit renewal; performance standards; prospecting permits and notices of intent; bonding and insurance; protection of parks and historic sites; lands where mining is prohibited; inspection and enforcement; civil penalties; small operator assistance program (SOAP); restrictions on employee financial interests; blasters license; and revision of permits.

At the request of three interested parties, we are extending the previously announced public comment period.

This document gives the times and locations that the Montana program and proposed amendment to that program are available for your inspection, the extended 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., m.s.t., February 28, 2006. If requested, we will hold a public hearing on the amendment on February 28, 2006. We will accept requests to speak until 4 p.m., m.s.t., on February 23, 2006.

**ADDRESSES:** You may submit comments, identified by "MT-025-FOR," by any of the following methods:

- E-mail: [rbuckley@osmre.gov](mailto:rbuckley@osmre.gov).

Include "MT-025-FOR" in the subject line of the message.

- Mail, Hand Delivery/Courier: Richard Buckley, Acting Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, 150 East B Street, Room 1018, Casper, WY 82601-1018. (307) 261-6550.

- Fax: (307) 261-6552.

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

**Instructions:** All submissions received must include the agency name and the identifier "MT-025-FOR". For detailed instructions on submitting comments and additional information on the rulemaking process, see "II. Public Comment Procedures" below.

**Docket:** Access to the docket, to review copies of the Montana program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, may be obtained 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 the Office of Surface Mining Reclamation and Enforcement's (OSM) Casper Field Office. In addition, you may review a copy of the amendment during regular business hours at the following locations:

Richard Buckley, Acting Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, 150 East B Street, Room 1018, Casper, WY 82601-1018. (307) 261-6550. E-mail: [rbuckley@osmre.gov](mailto:rbuckley@osmre.gov).

Neil Harrington, Chief, Industrial and Energy Minerals Bureau, Montana Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-

0901. (406) 444-2544. E-mail: [neharrington@mt.gov](mailto:neharrington@mt.gov).

**FOR FURTHER INFORMATION CONTACT:**

Richard Buckley, Telephone: (307) 261-6550. E-mail: [rbuckley@osmre.gov](mailto:rbuckley@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

I. Background on the Proposed Amendment  
II. Public Comment Procedures

**I. Background on the Proposed Amendment**

By letter dated August 29, 2005, Montana sent us a proposed amendment to its program (MT-025-FOR, Administrative Record No. MT-22-1) under SMCRA (30 U.S.C. 1201 *et seq.*). Montana sent the amendment in response to legislative revisions to its statutes, to the required program amendments at 30 CFR 926.16(e)(1), (k), (l), and (m), and to include the changes made at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**. Detailed information on the program amendment is also available in the November 29, 2005, **Federal Register** (70 FR 71428).

We announced receipt of the proposed amendment in the November 29, 2005, **Federal Register**, provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy. Because no one requested a public hearing or meeting, none was held. The public comment period ended on December 29, 2005. On that date, we received from one citizen and two citizen/environmental groups (Kentucky Resources Council, Bull Mountain Land Alliance) requests to extend the comment period by 30 days. Because of the extensive nature of this proposed program amendment (the November 29, 2005, proposed rule encompasses some 13 pages in the **Federal Register**), we are extending the comment period for the full 30 days requested.

**II. 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 Montana program. We cannot ensure that comments received after the close of the comment period (see **DATES**) or at locations other than those listed above (see **ADDRESSES**) will be considered or included in the Administrative Record.

**Written Comments**

Send your written or electronic comments to OSM at the address given

above. Your comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations.

**Electronic Comments**

Please submit Internet comments as an ASCII or MSWord file avoiding the use of special characters and any form of encryption. Please also include "Attn: SATS No. MT-025-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 Casper Field Office at (307) 261-6550.

**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., m.s.t., on February 23, 2006. 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 the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a 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.

### List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 30, 2005.

**Allen D. Klein,**

*Director, Western Region.*

[FR Doc. E6-2005 Filed 2-10-06; 8:45 am]

**BILLING CODE 4310-05-P**

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 931

[SATS No. NM-044]

#### New Mexico Regulatory Program

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

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

**SUMMARY:** We are 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 or the Act). New Mexico proposes revisions to statutes concerning administrative review of decisions and the award of attorney's fees and legal costs. New Mexico intends to revise its program to be consistent with the corresponding provisions of SMCRA and clarify the administrative and judicial review process.

This document gives the times and locations that the New Mexico program and 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., m.s.t. March 15, 2006. If

requested, we will hold a public hearing on the amendment on March 10, 2006. We will accept requests to speak until 4 p.m., m.s.t. on February 28, 2006.

**ADDRESSES:** You may submit comments, identified by "SATS No. NM-044", by any of the following methods:

- E-mail: [WGAINER@OSMRE.GOV](mailto:WGAINER@OSMRE.GOV). Include "SATS No. NM-044" in the subject line of the message.
- Mail/Hand Delivery/Courier: Willis Gainer, Chief, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, NW., Suite 1200, Albuquerque, NM 87102, Telephone: (505) 248-5096.

E-mail address: [wgainer@osmre.gov](mailto:wgainer@osmre.gov).

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

**Instructions:** All submissions received must include the agency name and SATS No. NM-044. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Comment Procedures" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** Access to the docket, to review copies of the New Mexico program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, may be obtained 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 the Office of Surface Mining Reclamation and Enforcement's (OSM) Albuquerque Field Office. In addition, you may review a copy of the amendment during regular business hours at the following locations:

Willis Gainer, Chief, Albuquerque Field Office Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue NW., Suite 1200, Albuquerque, NM 87102 Telephone: (505) 248-5096, E-mail address: [wgainer@osmre.gov](mailto:wgainer@osmre.gov).

Bill Brancard, Director, Mining and Minerals Division, Energy, Minerals and Natural Resources Department, 1220 South St. Francis Drive, Santa Fe, NM 87505, Telephone: (505) 476-3400.

#### FOR FURTHER INFORMATION CONTACT:

Willis L. Gainer Telephone: (505) 248-5096. E-mail address: [wgainer@osmre.gov](mailto:wgainer@osmre.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Background on the New Mexico Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

### I. Background on the New Mexico 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 this Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to this 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 New Mexico program on December 31, 1980. You can find 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 in the December 31, 1980, **Federal Register** (45 FR 86459). You can also find later actions concerning New Mexico's program and program amendments at 30 CFR 931.11, 931.15, 931.16, and 931.30.

### II. Description of the Proposed Amendment

By letter dated November 18, 2005, New Mexico sent us a proposed amendment to its program (administrative record No. 874) under SMCRA (30 U.S.C. 1201 *et seq.*). New Mexico sent the amendment in response to a condition of the New Mexico program approval at 30 CFR 931.11(e), concerning the award of attorney's fees and legal costs, and to include the changes made at its own initiative to clarify the administrative and judicial appeals process. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

New Mexico proposes revisions, described below, of the New Mexico Surface Mining Act (NMSA) 1978 and New Mexico Annotated Code (NMAC). The proposed revisions of NMSA 1978 were adopted by the New Mexico legislature and became effective June 17, 2005. The proposed revisions of NMAC were adopted by the Coal Surface Mining Commission on November 16, 2005, but will not become effective until they are published in the New Mexico Register.

New Mexico proposes stylistic editorial revisions to update citations and grammar of NMSA 1978 at (1) Section 69-25A-18.A., B., C., D., and F., concerning the decisions of the director of the New Mexico program and