

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 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. This determination is based on the fact that the Texas program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Texas program has no effect on Federally-recognized Indian tribes.

#### *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 943**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 28, 2006.

**Charles E. Sandberg,**

*Regional Director, Mid-Continent Region.*

[FR Doc. E6-5972 Filed 4-20-06; 8:45 am]

**BILLING CODE 4310-05-P**

## **DEPARTMENT OF THE INTERIOR**

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

#### **30 CFR Part 950**

[SATS No. WY-035-FOR]

#### **Wyoming 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 Wyoming regulatory program (hereinafter, the “Wyoming program”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Wyoming proposes revisions to and additions of rules about self-bonding (Rule Package 1-U). Wyoming intends to revise its program to be consistent with the corresponding Federal regulations, provide additional safeguards, clarify ambiguities, and improve operational efficiency.

This document gives the times and locations that the Wyoming 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. May 22, 2006. If requested, we will hold a public hearing on the amendment on May 16, 2006. We will accept requests to speak until 4 p.m., m.s.t. on May 8, 2006.

**ADDRESSES:** You may submit comments, identified by "SATS No. WY-035-FOR" by any of the following methods:

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

Include "SATS No. WY-035-FOR" in the subject line of the message.

- Mail/Hand Delivery/Courier: Willis Gainer, Acting Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, 150 East B Street Rm 1018, Casper, Wyoming 82601-1018. 307/261-6550. [WGainer@osmre.gov](mailto:WGainer@osmre.gov).

- 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 SATS No. WY-035-FOR. 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 Wyoming 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:

Willis Gainer, Acting Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, 150 East B Street Rm. 1018, Casper, Wyoming 82601-1018. 307/261-6550. [WGainer@osmre.gov](mailto:WGainer@osmre.gov).

John V. Corra, Director, Wyoming Department of Environmental Quality, Herschler Building, 122 West 25th Street, Cheyenne, Wyoming 82002. 307/777-7046. [jcorra@state.wy.us](mailto:jcorra@state.wy.us).

**FOR FURTHER INFORMATION CONTACT:** Willis Gainer, Telephone: 307/261-6550; E-mail: [WGainer@osmre.gov](mailto:WGainer@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

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

**I. Background on the Wyoming 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 Wyoming program on November 26, 1980. You can find background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Wyoming program in the November 26, 1980, **Federal Register** (45 FR 78637). You can also find later actions concerning Wyoming's program and program amendments at 30 CFR 950.12, 950.15, 950.16, and 950.20.

**II. Description of the Proposed Amendment**

By letter dated March 7, 2006, Wyoming sent us a proposed amendment to its program (administrative record No. WY-40-1) under SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming sent the amendment to reflect 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**.

The provisions of Wyoming's Rules that Wyoming proposes to revise are:

*Definition of "Bond"*

Chapter 1, section 2(k).

*Self-Bonding*

Chapter 11, section 2(a)(vii)(A), section 2(a)(xii)(A) and (B), section 2(a)(xii)(D) and (E).

Specifically, Wyoming proposes to make the following additions or revisions to its rules:

*Definition of "Bond"*

Revise Chapter 1, section 2(k) to expand the definition of "bond" to allow the Administrator to accept alternative financial assurances which provide comparable levels of assurance for reclamation performance, and require OSM approval of the alternative assurances.

*Self-Bonding*

Revise Chapter 11, section 2(a)(vii)(A) to allow operators to use an alternative "nationally-recognized statistical rating organization," as approved by the Securities and Exchange Commission, if acceptable to the regulatory authority

and equivalent to a rating of "A" or higher by either Moody's Investor Service or Standard and Poor's Corporation.

Revise Chapter 11, section 2(a)(xii)(A) to allow the Administrator to accept an increased self-bond limit of 35% of net worth for operators provided they meet more stringent financial ratios.

Revise Chapter 11, section 2(a)(xii)(B) to allow the Administrator to accept an increased self-bond limit of 30% of net worth for parent corporate guarantors provided they meet more stringent financial ratios.

Add newly-created Chapter 11, section 2(a)(xii)(D) to allow an operator to include foreign assets when calculating tangible net worth if the operator provides the information required under newly-created subsection (E).

Add newly-created Chapter 11, section 2(a)(xii)(E) which details the additional requirements if the Administrator accepts a foreign parent or non-parent corporate guarantee including: A legal opinion concerning the collectability of the self-bond in a foreign country; a separate bonding instrument to cover the estimated cost of collection; and a requirement that all audited financial statements be prepared in English with generally accepted accounting principles.

**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 Wyoming program.

*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. We will not consider or respond to your written 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 Casper Field Office may not be logged in.

*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: SATS No. WY-035-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. In the final rulemaking, we will not consider or include in the administrative record any electronic comments received after the time indicated under **DATES** or at e-addresses other than the Casper Field Office.

#### *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 May 8, 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.

#### **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 (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 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. Section 503(a)(7) requires that State programs contain rules and regulations “consistent with”

regulations issued by the Secretary pursuant to SMCRA.

##### *Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian Tribes and have determined that the rule does not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. The rule does not involve or affect Indian Tribes in any way.

##### *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*

No environmental impact statement is required for this rule since agency decisions on proposed State regulatory programs plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4321 et seq.) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

##### *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. 3501 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), of 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.
- 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 950**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 24, 2006.

**Allen D. Klein,**

*Regional Director, Western Region.*

[FR Doc. E6-5973 Filed 4-20-06; 8:45 am]

**BILLING CODE 4310-05-P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition to Delist the Pacific Coast Population of the Western Snowy Plover**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 12-month petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to remove the Pacific coast population of the western snowy plover (*Charadrius alexandrinus nivosus*) from the Federal List of Threatened and Endangered Wildlife pursuant to the Endangered Species Act of 1973, as amended. After reviewing the best scientific and commercial information available, we find that the petitioned action is not warranted. We ask the public to submit to us any new information that becomes available concerning the status of, or threats to, the species. This information will help us monitor and encourage the conservation of this species.

**DATES:** The finding announced in this document was made on April 21, 2006.

**ADDRESSES:** Data, information, comments, or questions concerning this finding may be sent to the Field Supervisor (Attn: WSP-DELIST), Arcata Fish and Wildlife Office, U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, California 95521-5582 (fax: 707-822-8411). The petition and supporting information are available for public inspection, by appointment, during normal business hours, at the above address.

**FOR FURTHER INFORMATION CONTACT:** Jim Watkins, Fish and Wildlife Biologist, in Arcata (telephone: 707-822-7201).

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*) requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial information to indicate the petitioned action may be warranted. Section 4(b)(3)(B) of the Act requires that within 12 months after receiving a petition to revise the List of Threatened and Endangered Wildlife and Plants that contains substantial information indicating that the petitioned action may be warranted, the

Secretary shall make one of the following findings: (a) The petitioned action is not warranted, (b) the petitioned action is warranted, or (c) the petitioned action is warranted but precluded by higher priority workload. Such 12-month findings are to be published promptly in the **Federal Register**.

**Previous Federal Action**

The Pacific coast population of the western snowy plover (*Charadrius alexandrinus nivosus*) (Pacific Coast WSP) was listed as threatened on March 5, 1993 (Service 1993 (58 FR 12864)), prior to publication of our 1996 distinct population segment (DPS) policy (Service and NMFS 1996a (61 FR 4722; February 7, 1996)). At the time of listing, the primary threat to the plover was the loss and degradation of habitat from human activities. Critical habitat for the Pacific Coast WSP was designated on September 9, 2005 (70 FR 56969).

On July 29, 2002, we received a petition from the Surf-Ocean Beach Commission of Lompoc, California, to delist the Pacific Coast WSP pursuant to the Act. We also received a similar petition dated May 30, 2003, from the City of Morro Bay, California. As explained in our 1996 Petition Management Guidance (Service and NMFS 1996b), subsequent petitions are treated separately only when they are greater in scope or broaden the area of review of the first petition. The City of Morro Bay petition repeats the same information provided in the Surf-Ocean Beach Commission petition and was therefore treated as a comment on the first petition received. On March 22, 2004 (69 FR 13326), we announced an initial (90-day) finding that the petition presented substantial information to indicate the petitioned action may be warranted, and we initiated a status review under sections 4(b)(3)(A) and 4(c)(2)(A) of the Act. We have now completed the status review on the species using the best available scientific and commercial information, and have reached a determination regarding the petitioned action. This status review also fulfills the requirements of 4(c)(2).

**Species Information**

Snowy plovers are small shorebirds, about 16 centimeters (6 inches) long, with pale brown upperparts, buff-colored bellies, and darker patches on their shoulders and heads. Their dark gray to black legs are a useful distinguishing feature when comparing to other plover species (Page *et al.* 1995a). Two subspecies of snowy plover