PART 211—CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS

1. The authority citation for 21 CFR part 211 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 355, 360b, 371, 374.

§ 211.194 [Amended]

2. Section 211.194 *Laboratory records* is amended by removing in paragraph (a)(2) and its footnote the number ''2'' and by adding in their place the number ''1''.

PART 720—VOLUNTARY FILING OF COSMETIC PRODUCT INGREDIENT COMPOSITION STATEMENTS

3. The authority citation for 21 CFR part 720 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 361, 362, 371, 374.

4. The heading for part 720 is revised to read as set forth above.

Dated: March 31, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–8716 Filed 4–7–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

[SPATS No. NM–037–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 revisions about cross sections, maps, and plans required in a permit application; criteria for permit approval or denial; requirement to release performance bonds; timing of backfilling and grading; backfilling and grading requirements for the construction of small depressions; and design requirements for road embankments. New Mexico revised its program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: April 10, 2000.

FOR FURTHER INFORMATION CONTACT: Willis L. Gainer, Telephone: (505) 248–5096, Internet address: WGAINER@OSMRE.GOV.

SUPPLEMENTARY INFORMATION:

I. Background on the New Mexico Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the New Mexico Program

On December 31, 1980, the Secretary of the Interior conditionally approved the New Mexico program. You can find background information on the New Mexico program, including the Secretary's findings, the disposition of comments, and conditions of approval 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. Submission of the Proposed Amendment

By letter dated March 11, 1996, New Mexico sent to us an amendment (SPATS No. NM–037–FOR, administrative record No. NM–773) to its program pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). New Mexico submitted the proposed amendment to include changes made in response to the required amendment at 30 CFR 931.16(t) and at its own initiative.

We announced receipt of the amendment in the March 26, 1996 **Federal Register** (59 FR 13117), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. NM–802). Because no one requested a public hearing or meeting, none was held. The public comment period ended on April 25, 1996.

During our review of the amendment, we identified concerns and notified New Mexico of the concerns by letter dated May 15, 1996 (administrative record no. NM–785). New Mexico responded in a letter dated November 9, 1998, by submitting a revised amendment and additional explanatory information (administrative record no. NM–803).

We announced receipt of the proposed amendments in the December 3, 1998 **Federal Register** (63 FR 66774). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (administrative record No. NM–809). We did not hold a public hearing or meeting because no one requested one. The public comment period ended on December 18, 1998.

During our review of the revised amendment, we identified concerns and notified New Mexico of the concerns by letter dated December 21, 1998 (administrative record no. NM–814). New Mexico responded in a letter dated December 1, 1999, by sending us a revised amendment (administrative record no. NM–816).

Based upon New Mexico's revisions to its amendment, we reopened the public comment period in the December 22, 1999 **Federal Register** (64 FR 71698); administrative record no. NM–818). The public comment period ended on January 21, 2000.

III. Director's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment.

1. Minor Revisions to New Mexico's Rules

New Mexico proposed minor wording, editorial, punctuation, grammatical, and recodification changes to the following previously-approved rules.

19 NMAC 8.2 813.L [30 CFR 779.25(b)] recodification concerning the requirement for maps, plans, and cross sections to be prepared by or under the direction of and certified by a qualified registered professional engineer;

19 NMAC 8.2 2054.A(2) [30 CFR 816.100] to refer to the term ''open pit mining;'' and

19 NMAC 8.2 2054.A(3) [30 CFR 816.100] to refer to the term ''strip mining.''

Because these changes are minor, we find that they will not make New Mexico's rules less effective than the corresponding Federal regulations.

2. Revisions to New Mexico's Rules That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations

New Mexico proposed revisions to the following rules containing language that is the same as or similar to the corresponding sections of the Federal regulations.

19 NMAC 8.2 2055.C(1) [30 CFR 816.102(h)], concerning backfilling and grading requirements for the construction of small depressions, and

19 NMAC 8.2 1106.C [30 CFR 773.15(c)(5)], concerning permit approval or denial pertaining to the probable cumulative hydrological impacts.

Because these proposed rules contain language that is the same as or similar to the corresponding Federal regulations, we find that they are no less effective than the corresponding Federal regulations.

3. Revisions to New Mexico's Rules That Are Not the Same as the Corresponding Provisions of the Federal Regulations

A. 19 NMAC 8.2 2054.A(1), (2), (3), and (5), Timing of Backfilling and Grading

New Mexico proposed to revise 19 NMAC 8.2. 2054A(1), (2), and (3), concerning time requirements for backfilling and grading of contour mining, open pit mining, and strip mining, to add the allowance for the Director of the New Mexico program to approve additional distance, as well as additional time, for rough backfilling and grading if the permittee can demonstrate, on the basis of the materials submitted under 19 NMAC 8.2 906.B(3), that additional distance is necessary.

New Mexico also proposed to add at 19 NMAC 8.2 2054.A(5) the requirement that, at completion of mining, rough backfilling and grading shall occur in accordance with a time schedule approved by the Director of the New Mexico program based on materials submitted under 19 NMAC 8.2 906.B(3).

Existing 19 NMAC 8.2 906.B(3) requires that each permit application contain a reclamation plan including a plan for backfilling, soil stabilization, compacting, and grading, with contour maps or cross sections that show the anticipated final surface configuration of the proposed permit area.

On December 17, 1991, OSM promulgated new regulations, at 30 CFR 816.101, that provided national time and distance performance standards for rough backfilling and grading for surface mining operations. Those regulations were subsequently challenged in *National Coal Association and American Mining Congress* v. *U.S. Department of the Interior, et al.,* Civ. No. 92–0408–CRR (1992). This case was dismissed without prejudice by the U.S. District Court for the District of Columbia as the result of a joint stipulation of the parties that included OSM's agreement to suspend the regulation at 30 CFR 816.101.

The December 17, 1991, Federal regulations at 30 CFR 816.101 concerning time and distance performance standards for rough backfilling and grading were suspended by OSM on July 31, 1992. Therefore, in absence of a specific Federal regulation providing specific time and distance performance standards for rough backfilling and grading, the Federal standards against which State time and distance performance standards for rough backfilling and grading must be judged are section 515(b)(16) of SMCRA and 30 CFR 816.100.

Section 515(b)(16) of SMCRA requires that surface coal mining and reclamation operations be conducted so as to insure that all reclamation efforts proceed as contemporaneously as practicable with the surface coal mining operations. The Federal regulation at 816.100 similarly provides that backfilling and grading shall occur as contemporaneously as practicable with mining operations. In common usage, the term ''practicable'' means ''possible to perform'' or ''feasible''. Therefore, New Mexico's proposal to allow time and distance standards for backfilling and grading demonstrated as necessary by an applicant's reclamation plan, whether during active mining as proposed by New Mexico at 19 NMAC 8.2 2054.A (1), (2), and (3), or at the completion of mining, as proposed by New Mexico at 19 NMAC 8.2 2054.A(5), is equivalent in meaning to and consistent with section(b)(16) of SMCRA and the Federal regulation at 30 CFR 816.100. Accordingly, New Mexico's proposed rules at 19 NMAC 8.2 2054.A (1), (2), (3), and (5) are no less stringent than section 515(b)(16) of SMCRA and no less effective than the Federal regulations at 30 CFR 816.100 with respect to standards for rough backfilling and grading. The Director approves 19 NMAC 8.2 2054.A (1), (2), (3), and (5).

B. 19 NMAC 8.2 2076.B and 2077.A(5), Design of Primary Road Embankments

OSM required at 30 CFR 931.16(t) that New Mexico revise 19 NMAC 8.2 2076.B(9), concerning the requirement for all ancillary and primary roads to have (at a minimum) a static safety factor of 1.3 for all embankments, to reference 19 NMAC 8.2 2076.D instead of 19 NMAC 8.2 2076.C. (See finding No. 20(b), 58 FR 65907, 65923, December 17, 1993.)

New Mexico proposed to revise 19 NMAC 8.2 2076.B by deleting the general requirement at 19 NMAC 8.2 2076.B(9) that all roads have, at a minimum, a static factor of safety of 1.3 for all embankments, with the exception that the Director of the New Mexico program could determine a lesser static factor of safety on a site-specific basis with respect to an ancillary road. New Mexico also proposed to revise 19 NMAC 8.2 2077.A by adding the requirement at 19 NMAC 8.2 2077.A(5) that all primary roads have a static factor of safety of 1.3, at a minimum, for all embankments.

The Federal regulations at 30 CFR 816.150 and 817.150, concerning performance standards for all roads, do not specify a static safety factor for road embankments and the Federal regulations at 30 CFR 816.151(b) and 817.151(b), concerning performance standards for primary roads, require that each primary road embankment have a minimum static factor of 1.3.

Because New Mexico's proposed revisions cause its rules to be the same as the Federal regulations, the Director finds that New Mexico's proposed deletion at 19 NMAC 8.2 2076.B(9) and addition at 19 NMAC 8.2 2077.A(5) have resolved the required amendment and are no less effective than the Federal regulations at 30 CFR 816.150 and 151(b) and 817.150 and 151(b). The Director approves the proposed deletion of 19 NMAC 8.2 2076.B(9) and addition of 19 NMAC 8.2 2077.A(5) and is removing the required amendment at 30 CFR 931.16(t).

4. Revisions to New Mexico's Rules With No Corresponding Federal Regulations

A. 19 NMAC 8.2 813.K, Cross Sections, Maps, and Plans Required in a Permit Application

New Mexico proposed to revise 19 NMAC 8.2 813.K(1) through (3), concerning cross sections, maps, and plans required in a permit application, by (1) deleting specific slope measurement requirements paragraphs (1) through (3) so that proposed 19 NMAC 8.2 813.K requires that a map show the existing land surface configuration of the proposed permit area on contour maps of a maximum of 5 foot contour intervals.

The corresponding Federal regulation at 30 CFR 779.25(a) lists what is required to be shown by cross sections, maps, and plans required in a permit application. There is no counterpart to proposed 19 NMAC 8.2 813.K, pertaining to a map showing existing land surface configuration, in the corresponding Federal regulations at 30 CFR 779.25(a). However, the requirement at proposed 19 NMAC 8.2 813.K serves to aid the regulatory authority in a determination at phase I bond release concerning backfilling and grading to approximate original contours and is not inconsistent with the requirements of the Federal regulations at 30 CFR 779.25(a).

Therefore, the Director finds that proposed 19 NMAC 8.2 813.K is no less effective than the Federal regulations at 30 CFR 779.25(a). The Director approves proposed 19 NMAC 8.2 813.K.

B. 19 NMAC 8.2 1412, Requirement to Release Performance Bonds

New Mexico proposed to revise 19 NMAC 8.2 1412 by adding new 19 NMAC 8.2 1412.A(2) (i) through (vii), concerning minimum requirements for all bond release applications, and recodifying existing 19 NMAC 1412.A(2) as 19 NMAC 1412.A(3). New Mexico also proposed to revise 19 NMAC 1412.A(3) by deleting the requirement for bond release applications that the applicant submit copies of letters which he has sent to adjoining property owners, local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies in the locality in which the surface coal mining and reclamation operation took place, notifying them of the intention to seek release from the bond. New Mexico deleted this requirement because it is proposed under the minimum requirements for a bond release application at 19 NMAC 1412.A(2)(v).

There are no specific counterparts setting forth minimum requirements for a bond release application in the corresponding Federal regulations at 30 CFR 800.40(a)(1). However, New Mexico's proposed minimum requirements at proposed 19 NMAC 1412.A(2)(i) through (vii) clarify what kinds of legal and technical information any bond release application must contain and are consistent with the Federal regulation at 30 CFR 800.40(a)(1). Recodified and revised 19 NMAC 1412.A(3), concerning the permittee's public notice of a bond release application, along with the requirement now codified at 19 NMAC 1412.A(2)(v) for copies of letters notifying specified individuals and governmental or private entities of the application for bond release, are substantively identical to the Federal regulation at 30 CFR 800.40(a)(2).

Therefore, the Director finds that proposed 19 NMAC 8.2 1412.A(2)(i) through (vii) and 1412.A(3) are no less effective than the Federal regulations at 30 CFR 800.40(a)(1) and (2). The Director approves proposed 19 NMAC 8.2 1412.A(2)(i) through (vii) and 1412.A(3).

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (administrative record Nos. 776, 806, and 817).

The National Mining Association requested, by letter dated December 8, 1998 (administrative record No. NM–810), that OSM send copies of (1) the May 15, 1996, letter sent to New Mexico by OSM setting forth concerns with the proposed amendment and (2) the supplemental information OSM sent to New Mexico by letter dated February 26,1998. OSM sent the requested information by letter dated December 22, 1998 (administrative record No. NM–813).

The Navajo Nation commented, by letter dated January 21, 2000 (administrative record No. 821), that it was unclear from the two December 22, 1999, **Federal Register** notices (64 FR 71698 and 64 FR 71700), which published OSM's receipt of three New Mexico amendments (including the amendment that is the subject of this document), that there would be an opportunity for public comment prior to OSM's decision on the amendments. The text of December 22, 1999, **Federal Register** notices identified the changes proposed by New Mexico, notified the public of its right to comment and/or request a public hearing or meeting, and provided for a thirty day public comment period on the proposed New Mexico amendments. The public comment period for the New Mexico amendments closed on January 21, 2000. OSM explained to the Navajo Nation, in a letter dated February 7, 2000 (administrative record No. NM–823), the OSM's published **Federal Register** notices, as well as OSM's distribution of the proposed amendment to interested parties (which included the Navajo Nation) by letters dated April 1, 1996, November 23, 1998, and December 15, 1999, were the vehicles by which OSM provided for a public comment period and solicited public comments.

The Navajo Nation had two additional comments concerning New Mexico's March 11, 1996, amendment that is the subject of this notice. First, the Navajo Nation commented that the word ''demonstrate'' was missing from the text of 19 NMAC 8.2 2054.A(3), concerning the timing of backfilling and grading for strip mining. The amendment language at this rule as submitted by New Mexico to OSM on December 1, 1999, did not include the word demonstrate. However, this typographical error was corrected when New Mexico promulgated this rule and the word ''demonstrate'' is included in the published text of New Mexico's rules. Second, the Navajo Nation commented that New Mexico's proposed addition of 19 NMAC 2045.A(5), concerning the timing of backfilling and grading for the final pit at completion of mining, was less effective than SMCRA and the Federal regulations because it lacked a time factor. New Mexico's proposed rule at 19 NMAC 2045.A(5) requires that a permittee complete backfilling and grading of a final pit at the completion of mining in accordance with a time schedule approved by New Mexico based on materials submitted by the permittee in accordance with 19 NMAC 906.B(3). Although New Mexico did not specify in the rule a time factor such as 60 days, it does require that a specific time schedule be approved by New Mexico when mining is complete. And, as discussed in finding 3.A above, New Mexico's proposal to allow time (and distance) standards for backfilling and grading demonstrated as necessary by a permittee's reclamation plan, whether during active mining as proposed by New Mexico at 19 NMAC 8.2 2054.A(1), (2), and (3), or at the completion of mining, as proposed by New Mexico at 19 NMAC 8.2 2054.A(5), is equivalent in meaning to and consistent with section 515(b)(16) of SMCRA and the Federal regulation at 30 CFR 816.100. The Director is taking no further action in response to these comments in the Navajo Nation's January 21, 2000, letter.

Federal Agency Comments

Under 30 CFR 732.17(H)(11)(i), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the New Mexico program (administrative record nos. 776, 806, and 817).

The U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS), submitted the following comments by letter dated April 12, 1996 (administrative record No. NM–781).

New Mexico's recodified rule at 19 NMAC 8.2 1412.A(2)(v) requires that bond release application contain copies of letters which that have been sent to adjoining property owners, local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies in the locality in which the surface coal mining and reclamation operation took place, notifying them of the intention to seek release from the bond. As discussed in finding No. 4.B above, 19 NMAC 8.2 1412.A(2)(v) is identical to the Federal regulation at 30 CFR 800.40(a)(3). NRCS questioned whether these groups will

have sufficient opportunity to respond, whether they will have information on where to send their response, and will the responses be included as part of the bond release application. New Mexico's rules at 19 NMAC 8.2 1412.A(3) require that the applicant for bond release advertise its intention to seek bond release and that the advertisement include, among other things, the name and address of the Director of the New Mexico to which written comments, objections, or requests for public hearings and informal conferences may be submitted. New Mexico's rules at 19 NMAC 8.2 1412.F provide for a person's right to file written objections until 30 days after the last publication of the advertisement required by 19 NMAC 8.2 1412.A(3). These rules are identical to the counterpart Federal regulations. All comments pertaining to a bond release application received by New Mexico will become part of the public record.

NRCS commented that New Mexico's proposed rule at 19 NMAC 8.2 1510, concerning minimum requirements for coal mine operations exclusively under reclamation, should also contain information and analysis that will define expected land use, capability, and productivity after reclamation is complete. As announced by OSM in the December 3, 1998, **Federal Register** notice (which reopened the comment period on New Mexico's November 9, 1998, revisions proposed to its March 11, 1996, amendment), New Mexico withdrew all proposed rules at 19 NMAC 8.2 Part 15 (administrative record No. NM–809). These rules had no counterpart in the Federal program and were repealed by New Mexico so that they no longer exist in its program.

NRCS commented that the timing of backfilling and grading, as proposed by New Mexico at 19 NMAC 8.2 2054.A(1) and (3), should not rely only on distance, but should include a time factor as well. New Mexico subsequently revised its proposed rules at 19 NMAC 8.2 2054.A, as discussed in finding 3.A above, to require that the timing of backfilling and grading be determined by both time and distance standards.

Based on the discussion above, the Director is taking no further action in response to the NRCS comments.

The Bureau of Land Management (BLM) submitted the following comments by letter dated April 17, 1996 (administrative record No. NM–782).

BLM recommended that New Mexico revise 19 NMAC 8.2 813.K, concerning a map showing the existing land surface configuration of the proposed permit area on contour maps of a maximum of 5 foot contour intervals, to require the map to show roads, rail lines, occupied dwellings, pipelines, power lines, and planned exploratory and development features on a scale of 1:24,000 or larger. As discussed at finding No. 4.A above, proposed 19 NMAC 8.2 813.K is not inconsistent with the requirements of the Federal regulations at 30 CFR 779.25(a). New Mexico's existing rules at 19 NMAC 8.2 812.D and E require a map showing the location of (1) all buildings on and within 1,000 feet of the proposed permit area, with identification of the current use of the buildings, and (2) surface and subsurface man-made features within, passing through, or passing over the proposed permit area, including, but not limited to major electric transmission lines, pipelines, and agricultural drainage tile fields. The counterpart Federal regulations, concerning map requirements at 30 CFR 779.24 and 779.25, do not otherwise include requirements similar to the ones recommended by BLM. OSM can only require that New Mexico's program contain rules that are no less effective than the Federal regulations.

BLM recommended New Mexico revise proposed 19 NMAC 8.2 2054.A to require that the permittee demonstrate that additional distance for backfilling and grading is necessary or conducive to greater recovery of coal. As discussed in finding No. 3.A above, New Mexico revised 19 NMAC 8.2 2054.A to provide for additional time and distance for the timing of backfilling and grading based on information submitted in the reclamation plan required at 19 NMAC 906.B(3). This information could include justification for additional distance based on the need to maximize coal recovery. OSM is approving proposed 19 NMAC 8.2 2054.A in part because OSM recognized that there may exist unique conditions at individual surface coal mining operations that require unique standards for the timing of backfilling and grading (see finding No. 3A above). However, the counterpart Federal regulations at 30 CFR 816.100 contain no requirement to the one recommended by BLM. OSM can only require that New Mexico's program contain rules that are no less effective than the Federal regulations.

BLM recommended New Mexico revise 19 NMAC 8.2 2076.B, concerning general road design requirements, to require that roads be maintained and reclaimed so as to be in compliance with any and all safety standards established or approved by the Director. As discussed at finding 3.B above, New Mexico's proposed revision of 19 NMAC 8.2 2076 and 2077 to require a 3.1 safety factor for primary road embankments, rather than for all road embankments, is identical to the requirements in the Federal regulations. New Mexico's existing rule at 19 NMAC 8.2 2076.C requires that the design and construction or reconstruction of roads shall incorporate appropriate limits for grade, width, surface materials, surface drainage control, culvert placement, culvert size, *and any necessary design criteria established by the Director* (emphasis added).

The counterpart Federal regulations, concerning general road design at 30 CFR 816.150, do not include a requirement similar to the one recommended by BLM. OSM can only require that New Mexico's program contain rules that are no less effective than the Federal regulations.

Based on the discussion above, the Director is taking no further action in response to BLM's comments.

The U.S. Department of Interior, Fish and Wildlife Service (FWS), submitted several comments, by letter dated April 30, 1996 (administrative record No. NM–784), pertaining to proposed 19 NMAC Part 15, concerning minimum requirements for coal mine operations exclusively under reclamation. As announced by OSM in the December 3, 1998, **Federal Register** notice (which reopened the comment period on New Mexico's November 9, 1998, revisions proposed to its March 11, 1996, amendment), New Mexico withdrew all proposed rules at 19 NMAC 8.2 Part 15 (administrative record No. NM–809). These rules had no counterpart in the Federal program and were repealed by New Mexico so that they no longer exist in its program. For this reason, the Director is taking no action in response to the FWS comments.

The U.S. Department of Agriculture, Forest Service, Southwestern Region, commented, by letter dated December 9, 1998 (administrative record No. NM–811), that it had no comments.

The U.S. Department of Army, Corps of Engineers, commented, by dated December 28, 1999 (administrative record No. NM–820), that it found the proposed changes to be satisfactory.

BLM also commented, by letter dated January 26, 2000 (administrative record No. NM–822) that New Mexico's proposed 19 NMAC 8.2 2054.A allows 60 days for rough backfilling and grading when contour mining, yet 180 days for strip mining. BLM commented that this difference indicates that 60 days is an insufficient time for such remediation and recommended either the 180 day, 1500 linear feet limit or limits determined by plans of operations. BLM further stated that it preferred tying time frames to plans

because specific seams may lend themselves to different backfilling and grading schedules.

As discussed in finding No. 3.A above, New Mexico proposed and OSM is approving, revisions to 19 NMAC 8.2 2054.A(1), (2), and (3), concerning time requirements for backfilling and grading of contour mining, open pit mining, and strip mining. New Mexico proposed to add the allowance for the Director of the New Mexico program to approve additional distance, as well as additional time, for rough backfilling and grading of contour mining, open pit mining, and strip mining, if the permittee can demonstrate, on the basis of the materials submitted that additional time or distance is necessary. Because New Mexico proposed (and OSM is approving) what BLM recommended in it's comment letter, the Director is taking no further action in response to this comment.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written agreement from EPA for those provisions of the program amendment that relate to air or water quality standards issued 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 this amendment pertain to air or water quality standards. Under 30 CFR 732.17(h)(11)(i), OSM requested comments on the amendment from EPA (administrative records Nos. 776, 806, and 817). EPA did not respond to our request.

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

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. We requested comments on New Mexico's amendment from the SHPO and ACHP (administrative record Nos. 776, 806, and 817); the ACHP did not respond to our request.

By letter dated April 19, 1996, the SHPO commented that it was unclear whether the protection from adverse effect of reclamation operations proposed at 19 NMAC 8.2 1517 (protection of public parks and historic places) included cultural resources identified at 19 NMAC 8.2 1510 (general environmental resources), and recommended that 19 NMAC 8.2 1517 be clarified to clearly include the cultural resources listed at 19 NMAC 8.2 1510.

As announced by OSM in the December 3, 1998, **Federal Register** notice (which reopened the comment period on New Mexico's November 9, 1998, revisions proposed to its March 11, 1996, amendment), New Mexico withdrew all proposed rules at 19 NMAC 8.2 Part 15 (administrative record No. NM–809). These rules concerned minimum requirements for coal mine operations exclusively under reclamation and had no counterpart in the Federal program; they were repealed by New Mexico and no longer exist in its program. Therefore, the Director is taking no action in response to this comment.

V. Director's Decision

Based on the above findings, we approved the March 11, 1996, amendment sent to us by New Mexico, as revised on November 9, 1998, and December 1, 1999.

We approved, as discussed in:

(1) Finding No. 1, 19 NMAC 8.2 813.L, 19 NMAC 8.2 2054.A(2), and 19 NMAC 8.2 2054.A(3), concerning minor wording, editorial, punctuation, grammatical, and/or recodification changes to previously-approved New Mexico rules;

(2) Finding No. 2, 19 NMAC 8.2 2055.C(1) and 19 NMAC 8.2 1106.C, revisions to New Mexico's rules that contain language that is the same as or similar to the corresponding sections of the Federal regulations concerning, respectively, backfilling and grading requirements for the construction of small depressions and permit approval or denial pertaining to the probable cumulative hydrological impacts;

(3) Finding No. 3.A, 19 NMAC 8.2 2054.A(1), (2), and (3), and 19 NMAC 8.2 2054.A(5), concerning time requirements for backfilling and grading of contour mining, open pit mining, and strip mining and the schedule for backfilling and grading at completion of mining;

(4) Finding No. 3.B, 19 NMAC 8.2 2076.B and 19 NMAC 8.2 2077.A, concerning the static factor of safety of 1.3 for road embankments;

(5) Finding No. 4.A, 19 NMAC 8.2 813.K(1) through (3), concerning cross sections, maps, and plans required in a permit application; and

(6) Finding No. 4.B, 19 NMAC 8.2 1412.A(2) (i) through (vii), concerning minimum requirements for all bond release applications.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 931, which codify decisions concerning the New Mexico program. We are making this final rule effective immediately to expedite the State program amendment process and to encourage States to make their programs conform with the Federal standards. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12988

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.

3. 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)).

4. 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.*).

5. 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.

6. 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: March 21, 2000.

Brent T. Wahlquist,

Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 931 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
*	*	* * * * *
March 11, 1996	April 10, 2000	19 NMAC 8.2 813.K (1) through (3); 813.L; 1106.C; 1412.A(2) (i) through (vii); 2054.A (1), (2), (3), and (5); 2055.C(1); 2076.B; and 2077.A.

§ 931.16 [Amended]

3. Section 931.16 is amended by removing and reserving paragraph (t).

[FR Doc. 00–8666 Filed 4–7–00; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Defense Threat Reduction Agency

32 CFR Part 318

Defense Threat Reduction Agency Privacy Program

AGENCY: Defense Threat Reduction Agency, DoD

ACTION: Final rule, with comments.

SUMMARY: 32 CFR part 318 is being revised to incorporate administrative changes made to the Defense Threat Reduction Agency Privacy Act Program Instruction.

DATES: This rule is effective January 18, 2000. Comments must be received by June 9, 2000.

ADDRESSES: Chief, FOIA and Privacy Division, FOIA/Privacy Act Division, Defense Threat Reduction Agency (ADF), 6801 Telegraph Road, Alexandria, VA 22310–3398.

FOR FURTHER INFORMATION CONTACT: Ms. Sandy Ford at (703) 325–1205.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that 32 CFR part 318 is not a significant regulatory action. The rule does not:

(1) Have an annual effect to the economy of $100 million or more; or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or state, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof;

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or record keeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects 32 CFR part 318

Privacy.

Accordingly, Title 32 CFR part 318 is revised to read as follows:

PART 318—DEFENSE THREAT REDUCTION AGENCY PRIVACY PROGRAM

Sec.

318.1 Reissuance and purpose.
318.2 Application.
318.3 Definitions.
318.4 Policy.
318.5 Designations and responsibilities.
318.6 Procedures for requests pertaining to individual records in a record system.
318.7 Disclosure of requested information to individuals.
318.8 Request for correction or amendment to a record.
318.9 Agency review of request for correction or amendment of record.
318.10 Appeal of initial adverse Agency determination for access, correction or amendment
318.11 Disclosure of record to persons other than the individual to whom it pertains.
318.12 Fees.
318.13 Enforcement actions.
318.14 Blanket routine uses.
318.15 Rules of conduct.
318.16 Exemption rules.

Authority: Pub. L. 93–579, 88 Stat 1896 (5 U.S.C. 552a).

§ 318.1 Reissuance and purpose.

(a) This part updates the policies, responsibilities, and procedures of the DTRA Privacy Program under the Privacy Act of 1974, as amended (5