DEPARTMENT OF INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

[SPATS NO NM–040–FOR]

New Mexico 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: Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of revisions pertaining to a previously proposed amendment to the New Mexico regulatory program (hereinafter, the ''New Mexico program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions to New Mexico's proposed rules pertain to the Coal Mine Reclamation Program Vegetation Standards (including success standards, sampling techniques, and normal husbandry practices), time frames within the liability period for demonstrating success of revegetation, and annual report requirements. The amendment is intended to revise the New Mexico program to be consistent with the corresponding Federal regulations.

DATE: Written comments must be received by 4:00 p.m., m.d.t., July 7, 2000. If requested, we will hold a public hearing on the amendment on July 3, 2000. We will accept requests to speak until 4:00 p.m., m.d.t., on June 22, 2000.

ADDRESSES: You should mail or hand deliver written comments to Willis L. Gainer at the address listed below.

You may review copies of the New Mexico program, the 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 Albuquerque Field Office.

Willis L. Gainer, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, NW., Suite 1200, Albuquerque, New Mexico 87102.

Mining and Minerals Division, New Mexico Energy & Minerals Department, 2040 South Pacheco Street, Santa Fe, New Mexico 87505, Telephone: (505) 827–5970.

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

On December 31, 1980, the Secretary of the Interior conditionally approved the New Mexico program. General background information on the New Mexico program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the New Mexico program can be found in the December 31, 1980, **Federal Register** (45 FR 86459). Subsequent actions concerning New Mexico's program and program amendments can be found at 30 CFR 931.11, 931.15, 931.16, and 931.30.

II. Proposed Amendment

By letter dated December 1, 1999 (administrative record No. NM–816), New Mexico submitted a proposed amendment to its program pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). New Mexico submitted the proposed amendment in response to the required program amendments at 30 CFR 931.16(o), (w), (x), (y) and (aa), and at its own initiative.

OSM announced receipt of the proposed amendment in the December 22, 1999 **Federal Register** (64 FR 71700), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. NM–819). Because no one requested a public hearing or meeting, none were held. The public comment periods ended on January 21, 2000.

During our review of the December 1, 1999, amendment, OSM identified concerns and notified New Mexico of the concerns by letter dated February 17, 2000 (administration record no. NM–825). New Mexico responded in two letters dated April 26, 2000, by submitting (1) revisions to the December 1, 1999, amendment (administrative record No. NM–830) and (2) additional rule revisions never before submitted (administrative record No. NM–828).

New Mexico proposes further revisions to (1) sections I.D., II.B.1, and IV of New Mexico's proposed Coal Mine Reclamation Program Vegetation Standards; (2) requirements for demonstrating success of ground cover and productivity of revegetation at 19 NMAC 8.2 2065.B(1); and (3) the definitions of ''augmented seeding'' and ''interseeding'' at 19 NMAC 8.2 107.A(20) and 107.I(8).

New Mexico proposes new revisions to (1) the requirements for annual reports at 19 NMAC 8.2 507.A(1); and (2) the requirements for demonstrating (a) that the land has the capability of supporting livestock grazing at 19 NMAC 8.2 2064; (b) the success of ground cover and productivity at 19 NMAC 8.2 1065.B(2) and (3); and (c) the success of crop production at 19 NMAC 2065.B(5)(iii).

Specifically, New Mexico proposes to revise:

(1) Section I.D, Establishment and Monitoring of Revegetation Success Standards, of New Mexico's proposed Coal Mine Reclamation Program Vegetation Standards to clarify that the success of revegetation on reclaimed lands will be measured against the general revegetation requirements at 19 NMAC 8.2 2060 in addition to standards derived from an unmined reference area or technical standards;

(2) Section II.B.1, Sampling Techniques, of New Mexico's proposed Coal Mine Reclamation Program Vegetation Standards to require an operator to implement techniques to improve the reliability of the ocular estimation method;

(3) Section IV, Normal Husbandry Practices, of New Mexico's proposed Coal Mine Reclamation Program Vegetation Standards to (a) specify the land uses, time frames, and size limitations, if any, applicable to each approved normal husbandry practice, and (b) to clarify that in order for repair of erosional features to be considered a normal husbandry practice, the erosional features must be characteristic of unmined lands in the regions and the damage must not be caused by a lack of planning, design, or implementation of the mining and reclamation plan.

(4) 19 NMAC 8.2 2065.B(1) to provide that ground cover and productivity may be equal to the technical standards developed in accordance with New Mexico's proposed Coal Mine Reclamation Program Vegetation Standards, as an alternative to an approved reference area;

(5)(a) 19 NMAC 8.2 107.A(20), the definition of ''augmented seeding'' to mean ''seeding in excess of the normal husbandry practices approved in the Director's Coal Mine Reclamation Program Vegetation Standards, or reseeding with fertilization or irrigation, or reseeding in response to unsuccessful revegetation in terms of adequate germination or establishment or permanence,'' and (b) 107.I(8), by adding the definition ''interseeding'' to

mean ''a secondary seeding practice into established vegetation cover in order to take advantage of climatic conditions that favor species requiring special conditions for germination and establishment, or to improve or alter the composition between forage species and shrubs, or between warm and cool season grasses;''

(6) 19 NMAC 8.2 507.A(1), to require in an annual report, a current topographic or orthophotographic map with five foot contour intervals of the same scale as the mining and reclamation sequence maps found in the approved permit with five foot contour intervals, on a single sheet, or series of sheets, each sheet of the map being no larger than four feet by four feet, with the scale and all lines and symbols clearly described in the legend;

(7) 19 NMAC 8.2 2064 to require that an operator demonstrate, for at least two of the last four years rather than the last two years, that the reclaimed land has the capability of supporting livestock grazing at rates approximately equal to that for similar non-mined lands when the approved postmining land use is range or pasture land;

(8) 19 NMAC 8.2 2065.B(2), concerning the liability period in areas of more than 26.0 inches average annual precipitation, to require that ground cover and productivity shall equal or exceed the approved standard for two of the last four years, rather than the last two years, of the responsibility period;

(9) 19 NMAC 8.2 2065.B(3), concerning the liability periods in areas of less than or equal to 26.0 inches average annual precipitation, to require that ground cover and productivity shall equal the approved standard for at least two of the last four years, starting no sooner than year eight, rather than the last two years, of the responsibility period; and

(10) 19 NMAC 8.2 2065.B(5)(iii), concerning the demonstration of success of areas to be used for cropland, to require that crop production from the mined area shall be equal to or greater than that of the approved standard for two of the last four growing seasons, rather than the last two consecutive growing seasons, of the five or ten year liability period, starting no sooner than year eight of the ten year liability period.

III. Public Comment Procedures

Written Comments

Send your written 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. In the final rulemaking, we will not necessarily consider or include in the administrative record any comments received after the time indicated under **DATES** or at locations other than the Albuquerque Field Office.

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: SPATS No. NM–040–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 Albuquerque Field Office at (505) 248–5096.

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 4:00 p.m., m.d.t. on June 22, 2000. 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 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 regulations.

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, to the extent allowable by law, 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.

Executive Order 13132—Federalism

This rule does not have Federalism implication. 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.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State or local governmental agencies; 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 a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 931

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 24, 2000.

Brent T. Wahlquist,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 00–14358 Filed 6–6–00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 00–7145]

[RIN No. 2127–AH61]

Federal Motor Vehicle Safety Standards; Head Impact Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Extension of comment period.

SUMMARY: This document grants a request to extend the comment period on an agency proposal to amend the upper interior impact requirements of its standard on occupant protection in interior impact by modifying the minimum distance between certain target points on vertical surfaces inside a vehicle and by adding target points for pillar-like structures that do not meet the definition of ''pillar,'' i.e., certain door frames and vertical seat belt mounting structures.

DATES: Extended comment closing date: Comments on the April 5, 2000 proposal, 65 FR 17842, Docket No. 00–7145, must be received by the agency on or before close of business on July 5, 2000.

ADDRESSES: You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. Alternatively, you may submit your comments electronically by e-mail at http://dms.dot.gov.

You may call the Docket at 202–366–9324, and visit it from 10:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Dr. William Fan, Office of Crashworthiness Standards, at (202) 366–4922, facsimile (202) 366–4329, electronic mail ''bfan@nhtsa.dot.gov''. For legal issues, you may call Otto Matheke, Office of the Chief Counsel, at 202–366–5263.

SUPPLEMENTARY INFORMATION: On April 5, 2000, NHTSA published a notice of proposed rulemaking proposing to amend the upper interior impact requirements of Standard No. 201, Occupant Protection in Interior Impact, in several respects. One proposal addressed the minimum distance between certain target points on vertical surfaces inside a vehicle. Compliance with the upper interior impact requirements is determined, in part, by measuring the forces experienced by a test device known as the Free Motion Headform (FMH) when it impacts certain target points in the vehicle interior. To ensure that the damage caused by the testing of one target point does not overlap the testing of nearby target points, the standard specifies that tested targets be at least a certain distance apart; currently 150 mm (6 inches). We proposed expanding this minimum distance to 200 mm (8 inches) for tests performed on certain vertical surfaces in order to alleviate concerns that the current distance is not large enough to prevent the FMH impact area for one target point from overlapping the FMH impact areas for nearby target points in the same vehicle. We also proposed adding target points for pillar-like structures that do not meet the definition of ''pillar,'' i.e., certain door frames and vertical seat belt mounting structures and are therefore not currently subject to Standard No. 201. We tentatively concluded that these structures are the equivalent of ''pillars'' now covered by the Standard.

The NPRM specified a comment closing date of June 5, 2000 (60 days after date of publication). However, on May 16, 2000, we received a request for an extension of the comment closing date from Advocates for Highway and Auto Safety (Advocates). Advocates stated that it wished to provide comments on our proposal, but was unable to do so in a timely fashion due