

**Regulatory Procedures***Executive Order 12866*

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they are not subject to OMB review.

*Regulatory Flexibility Act*

We certify that these proposed regulations will not have a significant impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis, as provided in the Regulatory Flexibility Act, as amended, is not required.

*Paperwork Reduction Act*

These proposed regulations will impose no new reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Programs No. 96.006, Supplemental Security Income)

**List of Subjects***20 CFR Part 416*

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

*20 CFR Part 422*

Administrative practice and procedure, Organization and functions (Government agencies), Social Security.

Dated: October 5, 2000.

**Kenneth S. Apfel,**

*Commissioner of Social Security.*

For the reasons set out in the preamble, we propose to amend subparts E and N of Part 416 and subpart D of Part 422 of Chapter III of Title 20 of the Code of Federal Regulations as follows:

**PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED**

1. The authority citation for subpart E of Part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1601, 1602, 1611(c) and (e), and 1631(a)–(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1381, 1381a, 1382(c) and (e), and 1383(a)–(d) and (g)); 31 U.S.C. 3720A.

2. Section 416.590 is added to read as follows:

**§ 416.590 Are there additional methods for recovery of title XVI benefit overpayments?**

(a) *General.* In addition to the methods specified in §§ 416.560, 416.570 and § 416.580, we may recover an overpayment under title XVI of the Act from you under the rules in subpart D of part 422 of this chapter, provided:

(1) The overpayment occurred after you attained age 18;

(2) You are no longer entitled to benefits under title XVI of the Act; and

(3) Pursuant to paragraph (b) of this section, we have determined that the overpayment is otherwise unrecoverable under section 1631(b) of the Act.

(b) *When we consider an overpayment to be otherwise unrecoverable.* We consider an overpayment under title XVI of the Act to be otherwise unrecoverable under section 1631(b) of the Act if all of the following conditions are met:

(1) We have completed our billing system sequence (*i.e.*, we have sent you an initial notice of the overpayment, a reminder notice, and a past-due notice) or we have suspended or terminated collection activity under the Federal Claims Collection Standards in 4 CFR 104.2 or 104.3.

(2) We have not entered into an installment payment arrangement with you or, if we have entered into such an arrangement, you have failed to make any payment for two consecutive months.

(3) You have not requested waiver pursuant to § 416.550 or § 416.582 or, after a review conducted pursuant to those sections, we have determined that we will not waive collection of the overpayment.

(4) You have requested reconsideration of the initial overpayment determination pursuant to §§ 416.1407 and 416.1409 or, after a review conducted pursuant to § 416.1413, we have affirmed all or part of the initial overpayment determination.

(5) We cannot recover your overpayment pursuant to § 416.570 by adjustment of benefits payable to any individual other than you. For purposes of this paragraph, if you are a member of an eligible couple that is legally separated and/or living apart, we will deem unrecoverable from the other person that part of your overpayment which he or she did not receive.

3. The authority citation for subpart N of Part 416 is revised to read as follows:

**Authority:** Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b).

4. In § 416.1403, paragraph (a) is amended by removing the word “and”

at the end of paragraph (a)(16), removing the first period in paragraph (a)(17), replacing “See” with “see” in the parenthetical in paragraph (a)(17), replacing the second period at the end of paragraph (a)(17) with a semicolon, and adding new paragraphs (a)(18) and (a)(19) to read as follows:

**§ 41.1403 Administrative actions that are not initial determinations.**

(a) \* \* \*

(18) Determining whether we will refer information about your overpayment to a consumer reporting agency (see § 416.590 and § 422.305 of this chapter); and

(19) Determining whether we will refer your overpayment to the Department of the Treasury for collection by offset against Federal payment due you (see § 416.590 and § 422.310 of this chapter).

\* \* \* \* \*

**PART 422—ORGANIZATION AND PROCEDURES**

5. The authority citation for subpart D of Part 422 is revised to read as follows:

**Authority:** Secs. 204(f), 205(a), 702(a)(5), and 1631(b) of the Social Security Act (42 U.S.C. 404(f), 405(a), 902(a)(5), and 1383(b)); 31 U.S.C. 3711(e); 31 U.S.C. 3716.

**§ 422.301 [Amended]**

6. Section 422.301(b) is amended by removing the words “title II” and by replacing “§ 404.527” with “§§ 404.527 and 416.590.”

**§ 422.305 [Amended]**

7. Section 422.305 is amended by removing the reference to “title II” in the heading and in paragraph (a).

[FR Doc. 00–27164 Filed 10–20–00; 8:45 am]

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**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 931**

[SPATS No. NM–041–FOR]

**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:** Office of Surface Mining Reclamation and Enforcement (OSM) is 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). The proposed amendment consists of recodification of the New Mexico Surface Coal Mining Regulations. The amendment is intended to revise the New Mexico program to improve operational efficiency and assure that the New Mexico Surface Coal Mining Regulations are codified according to the New Mexico administrative procedures.

**DATES:** Written comments must be received by 4 p.m., m.d.t., November 22, 2000. If requested, a public hearing on the proposed amendment will be held on November 17, 2000. Requests to present oral testimony at the hearing must be received by 4 p.m., m.d.t., on November 7, 2000.

**ADDRESSES:** You should mail or hand deliver written comments and requests to speak at the hearing 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 September 22, 2000 (administrative record No. NM-840), 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 at its own initiative. New Mexico proposes to recodify the New Mexico Surface Coal Mining Regulations.

Specifically, New Mexico proposes to recodify its regulations from Title 19 (Natural Resources and Wildlife), Chapter 8 (Coal Mining), Part 2 (Coal Surface Mining) of the New Mexico Administrative Code (NMAC), Subparts 1 through 34, to Title 19, Chapter 8 of NMAC, Parts 1 through 34, or 19.8 NMAC Parts 1-34. No substantive changes to the text of the New Mexico regulations that are counterpart to SMCRA are proposed.

The only significant text revisions New Mexico proposes are at 19.8.1.5 and 19.8.1.108. New Mexico proposes to revise Section 5 to clarify the effective date of the regulations as follows:

19.8.1.5 Effective Date: November 29, 1997, unless a later date is cited at the end of a section.

New Mexico proposes to revise Section 108 to reinsert previously approved language that was unintentionally removed when New Mexico recodified its regulations in 1997. New Mexico proposes to reinsert the following:

19.8.1.108 Suspension of Rules or Regulations (None) Section 1-11 CSMC Rule 80-1, as adopted May 15, 1980, is hereby repealed, provided, however, that such repeal shall not be deemed to affect the authority of persons to engage in or carry out any surface coal mining operations if he has a permit under Laws 1972, Chapter 68, and such permit has not expired pursuant to the Act or 19.8 NMAC Parts 1-34, so long as he complies with the provisions of the Act, the permit and 19.8 NMAC Parts 1-34.

##### III. Public Comment Procedures

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.

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-041-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.

Your written comments should be specific and pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's 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.

In accordance with the provisions of 30 CFR 732.17(h), we are requesting comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the New Mexico program.

Comments received after the time indicated under **DATES** or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

##### Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t., on November 7, 2000. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who testifies at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have 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 all persons scheduled to

speak and persons present in the audience who wish to speak have been heard.

#### *Public Meeting*

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet the OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

#### **IV. Procedural Determinations**

##### *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).

##### *Executive Order 12988*

The Department of the Interior has conducted the reviews required by section 3 of the 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.

##### *National Environmental Policy Act*

No environmental impact statement is required for this rule since 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 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.

##### *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.

##### *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 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.

##### *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.

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.

##### **List of Subjects in 30 CFR Part 931**

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 11, 2000.

**Peter A. Rutledge,**

*Acting Regional Director, Western Regional Coordinating Center.*

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## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 20**

#### **RIN 1018–AH67**

#### **Migratory Bird Hunting; Temporary Approval of Tin Shot as Nontoxic for Hunting Waterfowl and Coots During the 2000–2001 Season**

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

**ACTION:** Proposed rule; correction.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service or we) published in the September 25, 2000, **Federal Register**, a proposal to grant temporary approval of tin shot as nontoxic for hunting waterfowl and coots during the 2000–01 hunting season. Inadvertently, the deadline for public comment was stated as November 24, 2000. This correction amends the deadline for public comment to October 24, 2000.

**DATES:** Comments on the proposed rule published September 25, 2000 (65 FR 57586) must be received no later than October 24, 2000.

**ADDRESSES:** You should submit comments on the proposed rule to the Chief, Office of Migratory Bird