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First name: Kevin

Last name: Myers

Organization:

Title:

Official Representative/Member Indicator:

Address1: 1220 South St. Francis Drive

Address2: MARP-MMD

City: Santa Fe

State: NM

Province/Region: NM

Zip/Postal Code:

Country: United States

Email: kevin.myers@state.nm.us

Phone: 505-476-3438

Comments:

The Mining Act Reclamation Program of the New Mexico Mining Division (MMD) provides the following comments on the Advance Notice of Proposed Rulemaking docketed as FS-2018-0052:General CommentsA. MMD supports efficiencies between federal agencies by regulating mining claims in a similar manner where possible. B. MMD notes that due to checkerboard land status at some mining operations, state and federal agencies may have authority that requires greater communication especially for joint financial assurance mechanisms between two or more agencies.C. MMD is providing copies of certain sections of the New Mexico Mining Act Rules (MMD Rules) that may be helpful in addressing some of these questions: Financial Assurance, Minimal Impact Operations, and Inspection, Enforcement and Penalties, and MOU between State of NM, USFS and BLM.Specific Comments1.c MMD agrees with the overall approach to make the USFS three classes of locatable minerals more consistent with US BLM. This will ease understanding the federal government approach to process mineral application, and where mining exploration crosses both USFS and BLM lands in the same project, a similar approach would apply. MMD breaks down classes on mining into different categories. Attached please find MMD Rules Part 3, Minimal Impact Mining Operations. MMD does not have a notice category. Everything requires a permit, which requires more accountability on the part of the agency and the permittee. However, we do separate out minimal impact exploration and mining from regular exploration and mining. 2.d MMD encourages the USFS to reach out to early to the operator and the State permitting agency (if ones available) early in the NEPA process. Yes the operator should have the opportunity to meet with the USFS concerning the plan of operations before it is deemed administratively complete. 3.c MMD agrees with the recommended change to allow an operator to request USFS approval for a modification of an existing plan of operations. Additionally, this part should be amended to permit the Forest Service to require modification to the approved Plan. MMD agrees with the NRC findings in this regard. There will always be modifications needed as a mining operation progresses into the future, it is a dynamic process and not intended to be static. Regulations should allow for change, whether it be significant or insignificant. Additionally, if state lands are involved, the relevant state agencies should be contacted to evaluate if any modification of the operators state mining related permits would be addressed in a parallel process when possible. Please see attached MOU between State of NM, USFS, and BLM. 4.g MMD supports more consistent federal enforcement on USFS and BLM lands. Please see attached, MMD Rules Part 11, Enforcement.6.b MMD recommends authorized officers review cost estimates and financial guarantees whenever modifications to the existing plan of operations occur, when the operator fails to meet financial tests, and whenever operator proposes partial or complete release. Please see attached MMD Rules Part 12, Financial Assurance.6.c MMD recommends five years as the maximum financial assurance review interval by an authorized officer.