

determinations with regard to any claim of privilege or CEII status, and the discretion to release information as necessary to carry out its jurisdictional responsibilities.

(ii) The Secretary of the Commission will place the request for privileged or CEII treatment and a copy of the original document without the privileged or CEII information in a public file while the request is pending.

(2) *For documents submitted to Commission staff.* The notification procedures of paragraphs (d), (e), and (f) of this section will be followed by staff before making a document public.

(d) *Notification of request and opportunity to comment.* When a FOIA or CEII requester seeks a document for which privilege or CEII status has been claimed, or when the Commission itself is considering release of such information, the Commission official who will decide whether to release the information will notify the person who submitted the document and give the person an opportunity (at least five calendar days) in which to comment in writing on the request. A copy of this notice will be sent to the requester.

(e) *Notification before release.* Notice of a decision by the Commission, the Chairman of the Commission, the Director, Office of External Affairs, the General Counsel or General Counsel's designee, a presiding officer in a proceeding under part 385 of this chapter, or any other appropriate official to deny a claim of privilege, in whole or in part, or to make a limited release of CEII, will be given to any person claiming that the information is privileged or CEII no less than 5 calendar days before disclosure. The notice will briefly explain why the person's objections to disclosure are not sustained by the Commission. A copy of this notice will be sent to the FOIA or CEII requester.

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■ 3. In § 388.113 paragraphs (d)(3)(i) and (d)(3)(ii) are revised to read as follows:

§ 388.113 Accessing critical energy infrastructure information.

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(d) *Optional procedures for requesting critical energy infrastructure information.*

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(3) * * *

(i) File a signed, written request with the Commission's CEII Coordinator. The request must contain the following: requester's name (including any other name(s) which the requester has used and the dates the requester used such name(s)), date and place of birth, title,

address, and telephone number; the name, address, and telephone number of the person or entity on whose behalf the information is requested; a detailed statement explaining the particular need for and intended use of the information; and a statement as to the requester's willingness to adhere to limitations on the use and disclosure of the information requested. Requesters are also requested to include their social security number for identification purposes. Federal agency employees making requests on behalf of Federal agencies may omit their social security number, and date and place of birth.

(ii) Once the request is received, the CEII Coordinator will determine if the information is CEII, and, if it is, whether to release the CEII to the requester. The CEII Coordinator will balance the requester's need for the information against the sensitivity of the information. If the requester is determined to be eligible to receive the information requested, the CEII Coordinator will determine what conditions, if any, to place on release of the information. Where appropriate, the CEII Coordinator will forward a non-disclosure agreement (NDA) to the requester for execution. Once the requester signs any required NDA, the CEII Coordinator will provide the requested critical energy infrastructure information to the requester. The CEII Coordinator's decisions regarding release of CEII are subject to rehearing as provided in § 385.713 of this chapter. Copies of requests for rehearing of the CEII Coordinator's decision must be served on the CEII Coordinator and the Associate General Counsel for General Law.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[MT-023-FOR]

Montana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving, with certain exceptions and additional requirements, a proposed amendment to the Montana regulatory program (the

"Montana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Montana proposed revisions to and additions of rules and statutes about: definitions; ownership and control; baseline information; maps; prime farmland; reclamation plan; ponds and embankments; transportation facilities plan; coal processing plants and support facilities; permit applications, conditions, revisions, and renewal; backfilling and grading; small depressions; burial and treatment of exposed mineral seams; storage and disposal of garbage; disposal of off-site generated waste and fly ash; contouring; buffer zones; thick overburden and disposal of excess spoil; permanent cessation of operations; roads and railroad loops; soil removal; blasting schedule; sealing of drilled holes; water quality performance standards; reclamation of drainages; sedimentation ponds and other treatment facilities; discharge and outflow structures; permanent and temporary impoundments; groundwater and surface water monitoring; wells and underground operations; redistribution and stockpiling of soil; establishment of vegetation; soil amendments and other management techniques; other revegetation comparison standards; vegetation production, cover, diversity, density, and utility requirements; measurement standards for trees, shrubs, and half-shrubs; postmining land use; alternate reclamation; general performance standards; subsidence controls; disposal of underground development waste; disposal of coal processing waste; information and monthly reports; renewal and transfer of prospecting permits; prospecting drill holes; prospecting roads and other transportation facilities; removal of prospecting equipment; prospecting test pits; prospecting bond release procedures; notice of intent to prospect; bonding; reassertion of jurisdiction; areas where coal mining is prohibited; designation of lands unsuitable; small operator assistance program; certification of blasters; and blaster training courses. Montana also proposed to recodify its program rules in the Administrative Rules of Montana (ARM) from Title 26 Chapter 4 to Title 17 Chapter 24. Montana revised its program to be consistent with the corresponding Federal regulations and SMCRA, and provide additional safeguards and clarify ambiguities.

EFFECTIVE DATE: August 6, 2003.

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