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I. Background on the Montana Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Montana program on April 1, 1980. You can find background information on the Montana program, including the Secretary's findings, the disposition of comments, and conditions of approval in the April 1, 1980, **Federal Register** (45 FR 21560). You can also find later actions concerning Montana's program and program amendments at 30 CFR 926.15, 926.16, and 926.30.

II. Submission of the Proposed Amendment

By letter dated May 7, 2002, Montana sent us an amendment (SATS No. MT-023-FOR, Administrative Record No. MT-20-01) to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Montana sent the amendment: (1) In response to letters dated March 29, 1990; June 5, 1996; January 13, 1997; and June 26, 1997 (Administrative Record Nos. MT-60-07, MT-60-09, MT-60-10, and MT-60-11) that we sent to Montana in accordance with 30 CFR 732.17(c), (2) in response to the required program amendments at 30 CFR 926.16(e)(9), and (3) to include the changes made at its own initiative.

We announced receipt of the proposed amendment in the July 15, 2002, **Federal Register** (67 FR 46434). 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. MT-20-06). We did not hold a public hearing or meeting because one was not requested. The public comment period ended on August 14, 2002. We received comments from one private citizen.

III. OSM'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 with exceptions and additional requirements as described below.

A. Minor Revisions to Montana's Rules and Statutes

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

We note that as a result of the reorganization of the natural resources function of the Montana State Government in 1995, which transferred the authority to regulate coal mining under SMCRA from the Department of State Lands to the Department of Environmental Quality (Department), all of the Montana program rules were recodified from Title 26 Chapter 4 to Title 17 Chapter 24 of the Administrative Rules of Montana.

- ARM 17.24.301(34)–(141) Definitions (recodified).
- ARM 17.24.301(46) Definition of "habit or characteristic pattern" [relocated from ARM 17.24.634].
- ARM 17.24.301(79) Definition of "owned or controlled."
- ARM 17.24.301(111) Definition of "soil survey."
- ARM 17.24.302(6) Permit application format.
- ARM 17.24.303(15)(a)(ii) Permit applications; legal, financial, compliance, and related information.
- ARM 17.24.306 Permit applications; prime farmland investigation.
- ARM 17.24.313(6) Permit applications; reclamation plan.
- ARM 17.24.324 Permit applications; prime farmland special application requirements.
- ARM 17.24.327(2) Permit applications; coal processing plants, special application requirements.
- ARM 17.24.401 Processing of permit applications; filing of application.
- ARM 17.24.403 Processing of permit applications; informal conference.
- ARM 17.24.405(8) Processing of permit applications; findings and notice of decision.
- ARM 17.24.413 Processing of permit applications; conditions of permit.
- ARM 17.24.415 Processing of permit applications; permit revisions.
- ARM 17.24.507 Storage and final disposal of garbage and other debris.
- ARM 17.24.510(2) Disposal of offsite-generated waste and fly ash.
- ARM 17.24.518 Buffer zones.
- ARM 17.24.520(3) (recodification) Thick overburden and excess spoil.
- ARM 17.24.601(3), (4), (5), (7), (8) General requirements for roads.
- ARM 17.24.605 recodification, (3)(d)(iii), (f) [delete "or road"], hydrologic impact of roads.

- ARM 17.24.606 Surfacing of roads [moved to ARM 17.24.601(7)].
- ARM 17.24.607(2) (intro), (2)(c), Maintenance of roads.
- ARM 17.24.625 Seismograph measurements.
- ARM 17.24.632 Permanent sealing of drilled holes.
- ARM 17.24.634 (1) (intro), replacement of "stream" and "drainage" by "channel" throughout; reclamation of drainages.
- ARM 17.24.639(6), (9), (15)(a), (b) Sediment Ponds.
- ARM 17.24.640 Discharge structures.
- ARM 17.24.642(1)(f), (2), (3) Permanent and temporary impoundments.
- ARM 17.24.645(5) Groundwater monitoring.
- ARM 17.24.647 Transfer of wells.
- ARM 17.24.652 Wells and underground openings; safety.
- ARM 17.24.702(1), (2) Redistribution and stockpiling of soil.
- ARM 17.24.711(6)(b) Establishment of vegetation.
- ARM 17.24.716(1), (5)(a) Method of revegetation.
- ARM 17.24.718 Soil amendments.
- ARM 17.24.724 Use of revegetation comparison standards.
- ARM 17.24.733 (recodification of (3)–(5)) Measurement standards for woody plants.
- ARM 17.24.762 Postmining land use.
- ARM 17.24.815(2)(c)–(e), (h) Prime farmlands; revegetation.
- ARM 17.24.821 Alternate reclamation; submission of plan.
- ARM 17.24.823 Alternate reclamation; approval of plan and review of operation.
- ARM 17.24.825 Alternate reclamation; alternate revegetation.
- ARM 17.24.903 Underground mining, general performance standards.
- ARM 17.24.924 (Recodification (15)–(20)) Underground mining, disposal of underground development waste.
- ARM 17.24.925 Underground mining, disposal of underground development waste; durable rock fills.
- ARM 17.24.927 Underground mining, disposal of underground development waste; valley fill.
- ARM 17.24.1001(1), (2)(b)–(k), (2)(m)–(4) Prospecting, permit requirements.
- ARM 17.24.1005 Prospecting, drill holes.
- ARM 17.24.1006 Prospecting, roads and other transportation facilities, ARM 17.24.1010 Prospecting, removal of equipment.
- ARM 17.24.1014(1)–(3) Prospecting, test pits; application requirements, etc.
- ARM 17.24.1017 Prospecting, bond release procedures for drilling operations.
- ARM 17.24.1018(5)–(9) Prospecting, notice of intent to prospect.
- ARM 17.24.1108 Bonding, certificate of deposit.
- ARM 17.24.1116, 1116A Bonding, criteria for bond release, reassertion of jurisdiction.
- ARM 17.24.1132 Areas upon which coal mining is prohibited; definitions and standard for measurement of distances.
- ARM 17.24.1143 Designation of lands unsuitable; prospecting on designated lands.