

beyond the general sediment controls required in the pit area. Montana also proposed to add culverts and bridges to the non-exhaustive list of drainage control structures that may be used. The Federal provision at 30 CFR 816/817.151(d)(1) similarly suggests culverts and bridges. Therefore, we find that these proposed revisions are not inconsistent with the Federal requirements.

At new subparagraph (3)(a), Montana proposed to delete the restriction that discharge capacity of road water-control structures may not rely on hydraulic head (*i.e.*, impoundment at the entrance). Instead, Montana proposed that the discharge must “safely” pass the required design event. Montana notes in its explanation that use of hydraulic head to increase discharge rates can be safe in some cases. The OSM requirement at 30 CFR 816/817.151(d)(1) only requires that the drainage-control system be designed to “safely pass” the design event. We find the Montana revision to be consistent with the Federal requirement. Montana also proposed to add a provision that the Department may require a greater design event for culverts than the 10-year storm. This revision matches language in the Federal rule.

At new subparagraph (3)(b), Montana proposed to delete a requirement that certain large culverts be designed for a 25-year storm event. Similar language existed in OSM’s initial permanent program rules at then-existing 30 CFR 816.153(c)(1), but was subsequently deleted. Current OSM rules require, for primary roads, that the drainage control system be designed for a 10-year storm “or greater event” as specified by the regulatory authority (which was also added by Montana at new subparagraph (3)(a)). We find that Montana’s proposed revision is consistent with the Federal requirement.

At new subparagraph (3)(c), Montana proposed to delete culvert requirements for trash racks and fill cover depths. Similar language existed in OSM’s initial permanent program rules at then-existing 30 CFR 816.153(c)(1), but was subsequently deleted. OSM’s current regulations at 30 CFR 816/817.151(d)(2) require only that culverts be maintained in a free and operating condition. Montana has retained language requiring that culverts be constructed to avoid plugging. We find Montana’s proposed deletion to be consistent with the Federal requirements.

Also in this subparagraph, Montana has proposed to delete a provision specifying culvert spacing. Again, similar language existed in OSM’s initial permanent program rules at then-

existing 30 CFR 816.153(c)(2), but was subsequently deleted. OSM’s current regulations at 30 CFR 816/817.151(d)(1) require only that the drainage control system be designed to safely pass the runoff from the design storm event. A similar requirement exists in the Montana program at subparagraph (3)(a). We find Montana’s proposed deletion to be consistent with the Federal requirements.

At new subparagraph (3)(f), Montana proposed to delete a cross-reference requiring soil removal to be consistent with ARM 17.24.604. As noted in the finding above, we are approving deletion of the Montana rule at ARM 17.24.604. As noted above, OSM regulations do not impose any soil-removal requirements specific to roads. We find Montana’s proposed deletion of this cross-reference to be consistent with the Federal requirements.

For the reasons discussed above, we approve Montana’s proposed revisions to ARM 17.24.605.

C.18. ARM 17.24.607 Maintenance of Roads and Railroad Loops (30 CFR 816/817.150, 816/817.151, and 816/817.181)

Montana proposed to make the following revisions concerning the maintenance of roads: (1) Montana proposed to include railroad loops with the performance standards for roads and eliminate the differentiation of “access and haul” roads; (2) at new subsection (2)(a), Montana proposed to eliminate the phrase “resulting from sudden runoff events” concerning wet field conditions; (3) at new subsection (2)(c), Montana proposed to specify that runoff and sediment are contained “in accordance with the approved drainage control plan;” and (4) Montana proposed to make other editorial revisions and to recodify some provisions.

At ARM 17.24.607, as well as other sections in this submittal, Montana proposed to add “railroad loops,” and to eliminate the differentiation of access and haul roads in favor of “roads.” OSM has approved Montana’s definition of “railroad loops” in another technical finding. Under OSM’s rules, railroads are considered “support facilities.” Their performance standards at 30 CFR 816/817.181 are similar to, but less specific than, the performance standards for roads. We find that applying road performance standards to railroad loops is not inconsistent with the federal requirements.

At paragraph (1), Montana’s proposal would apply maintenance requirements to all roads. Since Montana’s definition of roads includes more travel ways than does the Federal definition, the

maintenance requirement is being applied to all roads covered by the Federal requirement at 30 CFR 816/817.150. Therefore, we find Montana’s proposed revision to be consistent with the Federal requirement.

At ARM 17.24.607(2)(a), Montana proposed to eliminate the phrase “resulting from sudden runoff events” concerning the operator’s inability to maintain ditches, culverts, drains, trash racks, debris basins and other drainage structures due to wet field conditions. Montana has proposed this deletion to broaden the rule and to consider all wet field conditions, not only those caused by sudden runoff events. For example, this may apply to spring snow melt. As previously approved, the provision in essence allows temporary deferral of maintenance on drainage-control structures under wet conditions, but the deferral is only allowed when there is no environmental or public risk and when all sediment is controlled. There is no corresponding OSM provision. Given the limits on the applicability of the deferral, we find that extending the deferral to other wet field conditions is not inconsistent with the Federal requirements.

Based on the discussions above, we approve Montana’s proposed revisions to this rule.

C.19. ARM 17.24.623 Blast Schedule (30 CFR 816/817.64)

Montana proposed to delete the requirement that the blasting period may not exceed an aggregate of 8 hours in any one day and that the Department may impose more restrictive conditions pursuant to ARM 17.24.624.

The Federal equivalent at 30 CFR 816.64(a)(1) states that the operator shall conduct blasting operations at times approved by the RA and that the RA may limit the area covered, timing, and sequence of blasting as listed in the schedule if such limitations are necessary and reasonable in order to protect the public health and safety or welfare. The provision which Montana proposed for deletion falls within the State’s discretion to specify, according to the Federal regulations. There is no exact Federal equivalent. Therefore, we find the proposed revisions are not inconsistent with the applicable Federal provisions and we approve them.

C.20. ARM 17.24.633 Water Quality Performance Standards (30 CFR 816/817.42, 816/817.46)

At paragraph (3), Montana proposed to extend the requirement that sediment ponds be constructed prior to mining to all sediment controls and add a cross-reference requiring compliance with