

tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 2, 2003.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[MT-024-FOR]

Montana Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of a proposed amendment to the Montana regulatory program (hereinafter, the "Montana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Montana proposes to make editorial and substantive revisions to the Montana Strip and Underground Mine Reclamation Act (MSUMRA) provisions in the Montana Code Annotated (MCA) that pertain to: State policy and findings concerning mining and reclamation; definitions; the time required to approve or disapprove minor permit revisions; permit application requirements, including determinations of probable hydrologic consequences and land use; requirements to protect the hydrologic balance; area mining, post-mine land use, and wildlife enhancement; revegetating disturbed areas; timing of reclamation; standards for successful revegetation; making vegetation the landowner's property after bond release; jurisdictional venue in right-of-entry actions; transfer of revoked permit; and mandamus. The State also proposes to add new provisions to the MSUMRA for: Revising applications for permits, permit amendments, and permit revisions; codifying the changes proposed in the amendment; clauses for severability, saving, and contingent

voidness; and a delayed effective date for the proposed changes. Montana intends to revise its program to incorporate the additional flexibility afforded by the revised Federal regulations and SMCRA, as amended, to provide additional clarification, and to improve operational efficiency.

This document gives the times and locations that the Montana program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., mountain daylight time November 26, 2003. If requested, we will hold a public hearing on the amendment on November 21, 2003. We will accept requests to speak until 4 p.m., mountain daylight time, on November 12, 2003.

ADDRESSES: You should mail or hand-deliver written comments and requests to speak at the hearing to Guy Padgett at the address listed below.

You may review copies of the Montana program, this 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 Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining, Federal Building, 100 East B Street, Casper, Wyoming 82601-1918, Telephone: (307) 261-6550, e-mail: gpadgett@osmre.gov.

Neil Harrington, Chief, Industrial and Energy Minerals Bureau, Coal and Uranium Program, Department of Environmental Quality, Phoenix Building, 2209 Phoenix Avenue, P.O. Box 200902, Helena, Montana 59620-0902, Telephone: (406) 444-4973, e-mail: neharrington@state.mt.us.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Casper Field Office Director; telephone: (307) 261-6550; e-mail: gpadgett@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Montana Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

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 of the Montana program 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. Description of the Proposed Amendment

By letter dated July 29, 2003, Montana sent us a proposed amendment to its program (SATS MT-024-FOR; Administrative Record No. MT-21-1) under SMCRA (30 U.S.C. 1201 *et seq.*). Montana sent the amendment to include changes made at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

The provisions of the Montana Strip and Underground Mine Reclamation Act that Montana proposes to add and/or revise are as follows.

82-4-202, Policy—Findings

Making editorial changes to State policy and findings concerning the environment, mining and reclamation and adding new policy and findings statements.

82-4-203, Definitions

Adding or revising the terms "adjacent area," "approximate original contour," "cropland," "developed water resources," "ephemeral drainageway," "fish and wildlife habitat," "forestry," "grazing land," "higher or better uses," "hydrologic balance," "industrial or commercial," "intermittent stream," "land use," "material damage," "pastureland," "perennial stream," "reclamation," "recreation," "reference area," "residential," "restore or restoration," "surface owner," and "wildlife habitat enhancement feature"; and recodifying defined terms and making editorial changes in the wording of several terms.