

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[SATS No. MT-042-FOR; Docket ID: OSM-2023-0007; S1D1S SS08011000 SX064A000 245S180110; S2D2S SS08011000 SX064A000 24XS501520]

Montana Regulatory Program; Reopening Comment Period

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.
ACTION: Proposed rule; public comment period reopening.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are reopening the public comment period in response to feedback received in response to a concern letter for 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 proposed this amendment to OSMRE, on its own initiative, following its passing of Montana House Bill 576 (2023), which amends the Montana Code Annotated (Mont. Code Ann.). Montana proposes changes to the definition of material damage and changes to permit requirements related to hydrologic information. HB 576 also adds four contingencies to the proposed amendments of the Mont. Code Ann.: a severability clause, a contingent voidness clause, an effective date clause, and a retroactive applicability clause. This document gives the times and locations that the Montana program and this revised proposed amendment to that program are available for your inspection and the comment period during which you may submit written comments on the revised amendment.

DATES: The comment period for the proposed rule published at 88 FR 52084 (August 7, 2023), which was reopened at 88 FR 64853 (September 20, 2023), is

reopened again. We will accept written comments on this amendment until 4 p.m., Mountain Daylight Time (MDT), August 14, 2024.

ADDRESSES: You may submit comments, identified by SATS No. MT-042-FOR, by any of the following methods:

- *Mail/Hand Delivery:* 100 East B Street, Room 4100, Casper, WY 82601.
- *Fax:* (307) 421-6552.
- *Federal eRulemaking Portal:* The amendment has been assigned Docket ID: OSM-2023-0007. If you would like to submit comments, go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than the ones listed above will be included in the docket for this rulemaking and considered.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Montana program, this amendment, a listing of any scheduled public hearings or meetings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSMRE’s Denver Field Division or the full text of the program amendment is available for you to read at www.regulations.gov. Jeffrey Fleischman, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, Dick Cheney Federal Building, POB 11018, 100 East B Street, Casper, Wyoming 82601, Telephone: (307) 261-6550, Email: jfleischman@osmre.gov.

In addition, you may review a copy of the amendment during regular business hours at the following location: Dan Walsh, Chief, Coal and Openpit Mining Bureau, Montana Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901, Telephone: (406) 444-6791, email: dwalsh@mt.gov.

FOR FURTHER INFORMATION CONTACT:

Attn: Jeffrey Fleischman, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Casper, Wyoming 82602, telephone: (307) 261-6550, email: jfleischman@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Montana Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Statutory and Executive Order Reviews

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 approved, State program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. 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 the Montana program and program amendments at 30 CFR 926.15, 926.16, and 926.30.

II. Description of the Proposed Amendment

By letter dated June 1, 2023 (Administrative Record No. MT-042-01), Montana sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). We found Montana’s proposed amendment to be administratively complete on June 5, 2023. Montana submitted this proposed amendment to us, of its own volition, following the passage of Montana House Bill 576 (HB 756) during the 2023 legislative session. HB 576 amends the Montana Strip and Underground Mine Reclamation Act codified at Mont. Code Ann. sec. 82-4-203 and sec. 82-4-222. HB 576 also adds four contingencies that apply to the proposed amendments. First, Montana proposes several changes to Mont. Code Ann. sec. 82-4-203(32),

which defines and describes “Material Damage.” Next, Montana proposes to amend its coal mine operation permit requirements related to hydrologic information Mont. Code Ann. sec. 82–4–222(1)(m). Lastly, HB 576 adds four contingencies to the proposed amendments of Mont. Code Ann. sec. 82–4–203(32) and sec. 82–4–222(1)(m) that are not codified into Mont. Code Ann. but apply to the amended sections: a severability clause, a contingent voidness clause, an effective date clause, and a retroactive applicability clause.

By letter dated August 18, 2023 (Administrative Record No. MT–042–09), we received a letter from interested parties requesting a 60-day extension of the public comment period for proposed amendment MT–042–FOR primarily due to technical difficulties accessing the *Federal eRulemaking Portal* and the inability to comment on topics of high interest. OSMRE agreed to extend the public comment period for MT–042–FOR to November 6, 2023.

Following our initial review, OSMRE sent a letter to the Montana Department of Environmental Quality (DEQ) on March 28, 2024 (Administrative Record No. MT–042–34). The letter outlined our concerns with Montana’s proposed amendment and offered Montana a decision to either (1) delay the amendment process, revise, and resubmit the amendment or (2) proceed to the final rulemaking. The concern letter was not an announcement of OSMRE’s final decision on the Montana amendment. On April 26, 2024, we received a response to our concern letter from DEQ. (Administrative Record No. MT–042–35). DEQ stated in its response that it could not revise the proposed amendment to address OSMRE’s concerns due to the amendment being prompted by legislative action. DEQ’s response also provided further comments disagreeing with parts of OSMRE’s concern letter. Following DEQ’s response, we received feedback on the concern letter from three additional entities (Administrative Record No. MT–042–36, MT–042–37, and MT–042–38). Due to the increased interest in the concern letter, and in the interest of fairness for public participation, OSMRE has decided to re-open the public comment period for 15-days. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at www.regulations.gov.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment

satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Electronic or Written Comments

If you submit written or electronic comments on the proposed rule during the 15-day comment period, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

IV. Statutory and Executive Order Reviews

Executive Order 12866—Regulatory Planning and Review, Executive Order 13563—Improving Regulation and Regulatory Review, and Executive Order 14094—Modernizing Regulatory Review

Executive Order 12866, as amended by Executive Order 14094, provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of State program amendments is exempted from OMB review under Executive Order 12866, as amended by Executive Order 14094. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSMRE for review, our

regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and Executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 926

Required program amendments, State-Federal cooperative agreement, State regulatory program approval, Surface mining.

David A. Berry,

Regional Director, Unified Regions 5, 7–11.

[FR Doc. 2024–16540 Filed 7–29–24; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

[SATS No. WY–047–FOR; Docket ID: OSM–2024–0002; S1D1S SS08011000 SX064A000 245S180110; S2D2S SS08011000 SX064A000 24XS501520]

Wyoming Regulatory Program

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

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

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are announcing receipt of a proposed regulatory amendment to the Wyoming coal program (Wyoming program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). On February 19, 2019, the Wyoming Environmental Quality Council (EQC) approved several revisions to the rules governing Financial Assurances and Self-Bonding under the Wyoming program. This document gives the times and locations that the Wyoming program and this 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