

**§ 558.355 Monensin.**

\* \* \* \* \*

(d) \* \* \*  
(7) \* \* \*

(vii) If feed refusals containing monensin are fed to other groups of cattle, the concentration of monensin in the refusals and amount of refusals fed should be taken into consideration to prevent monensin overdosing (see paragraphs (d)(10)(i) and (d)(10)(ii) of this section).

\* \* \* \* \*

(10) \* \* \*

(i) *Cattle (as described in paragraphs (f)(3)(i) through (f)(3)(xii) of this section)*: See paragraphs (d)(6), (d)(7)(i), (d)(7)(v), (d)(7)(vii), and (d)(7)(viii) of this section. Paragraph (d)(7)(vii) of this section does not apply to free-choice Type C medicated feeds as defined in § 510.455 of this chapter.

(ii) *Dairy cows (as described in paragraphs (f)(3)(xiii) and (f)(3)(xiv) of this section)*: See paragraphs (d)(6), (d)(7)(i), (d)(7)(vii), (d)(7)(viii), and (d)(7)(ix) of this section. Paragraph (d)(7)(vii) of this section does not apply to free-choice Type C medicated feeds as defined in § 510.455 of this chapter.

\* \* \* \* \*

(f) \* \* \*

(7) *Free-choice feeds*—(i) *Amount*. 150 milligrams per pound of protein-mineral block (0.033 percent).

(a) [Reserved]

(b) *Conditions of use*—(1) *Indications for use*. For increased rate of weight gain; and for prevention and control of coccidiosis caused by *Eimeria bovis* and *E. zuernii* in pasture cattle (slaughter, stocker, feeder, and dairy and beef replacement heifers) which may require supplemental feed.

(2) *Limitations*. Provide 50 to 200 milligrams of monensin (0.34 to 1.33 pounds of block) per head per day, at least 1 block per 10 to 12 head of cattle. Roughage must be available at all times. Do not allow animals access to other protein blocks, salt or mineral, while being fed this product. The effectiveness of this block in cull cows and bulls has not been established. See paragraph (d)(10)(i) of this section.

(ii) *Amount*. 400 milligrams per pound of protein-mineral block (0.088 percent).

(a) *Sponsor*. See No. 067949 in § 510.600(c) of this chapter.

(b) *Conditions of use*—(1) *Indications for use*. For increased rate of weight gain in pasture cattle (slaughter, stocker, feeder, and dairy and beef replacement heifers).

(2) *Limitations*. Provide 80 to 200 milligrams of monensin (0.2 to 0.5 pounds of block) per head per day, at

least 1 block per 5 head of cattle. Feed blocks continuously. Do not feed salt or minerals containing salt. The effectiveness of this block in cull cows and bulls has not been established. See paragraph (d)(10)(i) of this section.

(iii) *Amount*. 175 milligrams per pound of protein-mineral block (0.038 percent).

(a) *Sponsor*. See No. 066071 in § 510.600(c) of this chapter.

(b) *Conditions of use*—(1) *Indications for use*. For increased rate of weight gain in pasture cattle (slaughter, stocker, and feeder).

(2) *Limitations*. Provide 40 to 200 milligrams of monensin (0.25 to 1.13 pounds or 4 to 18 ounces of block) per head per day, at least 1 block per 4 head of cattle. Do not allow cattle access to salt or mineral while being fed this product. Ingestion by cattle of monensin at levels of 600 milligrams per head per day and higher has been fatal. The effectiveness of this block in cull cows and bulls has not been established. See paragraph (d)(10)(i) of this section.

(iv) *Amount*. 400 milligrams per pound of block (0.088 percent).

(a) *Sponsor*. See No. 051267 in § 510.600(c) of this chapter.

(b) *Conditions of use*—(1) *Indications for use*. For increased rate of weight gain in pasture cattle (slaughter, stocker, feeder, and dairy and beef replacement heifers).

(2) *Limitations*. Provide 50 to 200 milligrams of monensin (2 to 8 ounces of block) per head per day, at least 1 block per 5 head of cattle. Feed blocks continuously. Do not feed salt or mineral supplements in addition to the blocks. Ingestion by cattle of monensin at levels of 600 milligrams per head per day and higher has been fatal. The effectiveness of this block in cull cows and bulls has not been established. See paragraph (d)(10)(i) of this section.

\* \* \* \* \*

Dated: September 13, 2012.

**Bernadette Dunham,***Director, Center for Veterinary Medicine.*

[FR Doc. 2012-23065 Filed 9-18-12; 8:45 am]

BILLING CODE 4160-01-P

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 926****[SATS No. MT-034-FOR; Docket ID No. OSM-2011-0018]****Montana Regulatory Program****AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We are approving an 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 statutory definitions of approximate original contour, in situ coal gasification, and recovery fluid. Montana revised its program to clarify ambiguities and improve operational efficiency. Montana intends to promulgate regulations pertaining to in situ coal gasification within one year. The statutory revisions discussed here will support that future rulemaking effort.

**DATES:** *Effective Date:* September 19, 2012.**FOR FURTHER INFORMATION CONTACT:** Jeffrey Fleischman, Chief, Casper Field Office, Telephone: (307) 261-6550, email address: [jfleischman@osmre.gov](mailto:jfleischman@osmre.gov).**SUPPLEMENTARY INFORMATION:**

- I. Background on the Montana Program
- II. Submission of the Proposed Amendment
- III. Office of Surface Mining Reclamation and Enforcement’s (OSM’s) Findings
- IV. Summary and Disposition of Comments
- V. OSM’s Decision
- VI. 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 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 and 926.30.

**II. Submission of the Proposed Amendment**

By letter dated August 19, 2011, Montana sent us an amendment to its

program (Administrative Record No. MT-31-01) under SMCRA (30 U.S.C. 1201 *et seq.*). Montana submitted the amendment at its own initiative.

We announced receipt of the proposed amendment in the December 6, 2011, **Federal Register** (76 FR 76111; Administrative Record No. MT-31-10). 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. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on January 5, 2012. We received comments from two Federal agencies, one State agency, and one industry group.

### 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.

#### A. Minor Revisions to Montana's Statute

Montana proposed recodification changes to its statutory definitions. MCA § 82-4-203(27) through (56) have been recodified as MCA § 82-4-203(28) through (58). The addition of two new definitions (discussed below) necessitated these changes. These non-substantive changes do not alter the definitions' meaning or effectiveness.

Because these changes are minor, we find the provisions remain no less stringent than SMCRA.

#### B. Revisions to Montana's Statute That Are Not the Same as the Corresponding Provisions of the Federal Statute

Montana proposed revisions to its statutory definition of Approximate Original Contour (AOC). The existing definition contained language similar to the Federal definition of AOC as well as additional stipulations. Montana proposed to reference its definition of "hydrologic balance" within its existing AOC definition. The Federal counterpart definition does not employ the term hydrologic balance.

The proposed addition has no effect beyond referring the reader to the definition of an existing term. This addition does not alter the definition's meaning or effectiveness. This definition remains no less stringent than SMCRA.

#### C. Revisions to Montana's Statutes With No Corresponding Federal Statutes

Montana proposed two new definitions which do not have Federal counterparts under SMCRA: "in situ coal gasification" and "recovery fluid."

Montana proposed to define "in situ coal gasification" whereas SMCRA defines "in situ processing." The Federal definition lists in situ gasification as one type of in situ processing. Montana is proposing to define a subset of what the Federal Program defines. Montana's proposed language directly mirrors Wyoming's existing definition of "in situ mining." Wyoming's definition was approved on March 31, 1980 (45 FR 20930), under the partial approval of its original program. That approval set precedent for the definition Montana recently proposed.

Montana's proposed definition excludes "the storage of carbon dioxide in a geologic storage reservoir" from inclusion under in situ coal gasification. This phrase precludes in situ gasification projects from including carbon capture and sequestration (CCS) under the Montana coal regulatory program.

Montana Senate Bill 498 (SB498) designated the Board of Oil and Gas Conservation as the regulatory authority for CCS activities within the State. SB498 generally established that land surface owners own the pore space below the surface unless it is otherwise documented. As such, the Board would regulate any proposed CCS activities appropriately. CCS operations have potential environmental impacts such as groundwater contamination which, by exclusion from regulation under in situ coal gasification, would be avoided under Montana's coal regulatory program (CCS would invoke a separate regulatory scheme). For this reason, excluding CCS from in situ coal gasification is more stringent than the Federal Program because the Federal Program does not address this issue at all.

Montana's new definition provides a technically accurate description of in situ coal gasification. Because there is precedent for Montana's proposed definition, the proposed language exceeds what is defined or restricted under the Federal program, and the definition is technically accurate, this addition is no less stringent than SMCRA.

Montana proposed to define "recovery fluid." The Federal Program does not define this term; however, the Wyoming program approved by OSM on March 31, 1980 (45 FR 20930) defines this term. That approval set precedent for the definition Montana recently proposed. Montana's new definition provides a technically accurate description of recovery fluid. Because there is precedent for Montana's proposed definition, the proposed

language is technically accurate, and Montana exceeds what is defined under the Federal program, this addition is no less stringent than SMCRA.

We are approving all of Montana's August 19, 2011 proposed amendments.

### IV. Summary and Disposition of Comments

#### Public Comments

We asked for public comments on the amendment (Administrative Record ID No. MT-31-10), but did not receive any.

#### Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Montana program (Administrative Record ID No. MT-31-3).

By letter dated November 1, 2011, the Mine Safety and Health Administration (MSHA) responded to our request (Administrative Record ID No. MT-31-08). MSHA concurs with the proposed revisions. We agree with MSHA that the proposed revisions are acceptable.

By letter dated November 1, 2011, the Bureau of Land Management (BLM) Montana State Office responded to our request (Administrative Record ID No. MT-31-09). The BLM stated that the proposed changes appear to be substantially in agreement with the corresponding Federal regulations and are therefore no less stringent than SMCRA. The BLM has no objection to the proposed amendments. We agree with BLM's assessment.

#### Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Montana proposed to make in this amendment pertains to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

Under 30 CFR 732.17(h)(11)(i), OSM requested comments on the amendment from EPA (Administrative Record Document ID No. MT-31-3) by letter dated September 28, 2011. EPA did not respond to our request.

#### State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the

SHPO and ACHP on amendments that may have an effect on historic properties. On September 28, 2011, we requested comments on Montana's amendment (Administrative Record ID Nos. MT-31-4 and MT-31-5). By letter dated September 26, 2011, the SHPO responded to our request (Administrative Record ID No. MT-31-07). The SHPO believes the proposed changes do not appear to degrade consideration of cultural resources in any less effective fashion than required in Federal regulations. We agree with the SHPO's assessment.

#### V. OSM's Decision

Based on the above findings, we approve Montana's August 19, 2011 amendment. To implement this decision, we are amending the Federal regulations at 30 CFR Part 926, which codify decisions concerning the Montana program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrates that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

#### VI. Procedural Determinations

##### *Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

##### *Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

##### *Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments

submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

##### *Executive Order 13132—Federalism*

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

##### *Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian Tribes and have determined that the rule does not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. The rule does not involve or affect Indian Tribes in any way.

##### *Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211, which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

##### *National Environmental Policy Act*

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30

U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C) *et seq.*).

##### *Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

##### *Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

##### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), of the Small Business Regulatory Enforcement Fairness Act. This rule:

- a. Does not have an annual effect on the economy of \$100 million.
- b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

##### *Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which

is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the federal regulation did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 926**

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 27, 2012.

**Allen D. Klein**

*Director, Western Region.*

For the reasons set out in the preamble, 30 CFR part 926 is amended as set forth below:

**PART 926—MONTANA**

■ 1. The authority citation for part 926 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

■ 2. Section 926.15 is amended in the table by adding a new entry in chronological order by “Date of final publication” to read as follows:

**§ 926.15 Approval of Montana regulatory program amendments**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* * * * *	* * * * *	* * * * *
August 19, 2011 .....	September 19, 2012 .....	MCA 82–4–203(4)(c) (definition of AOC); addition of –203(27) “in situ coal gasification;” –203(44) “recovery fluid;” recodification of former –203(27) through (56).

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**DEPARTMENT OF THE INTERIOR**  
**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 943**

[SATS No. TX–064–FOR; Docket ID: OSM–2012–0005]

**Texas Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.  
**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Texas proposed revisions to its regulations regarding annual permit fees. Texas revised its program at its own initiative to raise revenues sufficient to cover its anticipated share of costs to administer the coal regulatory program and to encourage mining companies to more quickly reclaim lands and request bond release, thereby fulfilling SMCRA’s purpose of assuring the reclamation of mined land as quickly as possible.

**DATES:** *Effective Date:* September 19, 2012.

**FOR FURTHER INFORMATION CONTACT:** Alfred L. Clayborne, Director, Tulsa Field Office. Telephone: (918) 581–6430. Email: [aclayborne@osmre.gov](mailto:aclayborne@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Texas Program
- II. Submission of the Amendment
- III. OSM’s Findings

- IV. Summary and Disposition of Comments
- V. OSM’s Decision
- VI. Procedural Determinations

**I. Background on the Texas 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 Texas program effective February 16, 1980. You can find background information on the Texas program, including the Secretary’s findings, the disposition of comments, and the conditions of approval, in the February 27, 1980, **Federal Register** (45 FR 12998). You can find later actions on the Texas program at 30 CFR 943.10, 943.15, and 943.16.

**II. Submission of the Amendment**

By letter dated February 9, 2012 (Administrative Record No. TX–700), Texas sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Texas sent the amendment on its own initiative.

We announced receipt of the proposed amendment in the March 28, 2012, **Federal Register** (77 FR 18738). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one

requested one. The public comment period ended on April 27, 2012. We did not receive any public comments.

**III. OSM’s Findings**

The 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 as described below.

*16 Texas Administrative Code (TAC) Section 12.108 Permit Fees*

Texas proposed to revise its regulations at 16 TAC sections 12.108(b)(1)–(3), adjusting the annual coal mining permit fees for calendar year 2011 and 2012. Fees for mining activity during calendar year 2011 must be paid by coal mine operations by March 15, 2012, which is in Texas’ 2012 fiscal year. Similarly, fees for mining activity during calendar year 2012 are due by March 15, 2013, which is in Texas’ 2013 fiscal year.

By this amendment, Texas is:

- (1) Increasing the current \$130.00 per acre fee to \$154.00 per acre, the amount in paragraph (b)(1) for each acre of land within the permit area on which coal or lignite was actually removed during the calendar year;
- (2) Increasing the current \$5.50 per acre fee to \$10.40 per acre, the amount in paragraph (b)(2) for each acre of land within a permit area covered by a reclamation bond on December 31st of the year; and
- (3) Increasing the current \$4,250.00 fee to \$6,900.00, the amount in paragraph (b)(3) for each permit in effect on December 31st of the year.

The Federal regulations at 30 CFR 777.17, concerning permit fees, provide that applications for surface coal mining permits must be accompanied by a fee determined by the regulatory authority.