16 CFR Part 1221

Consumer protection, Imports, Incorporation by reference, Infants and children, Labeling, Law enforcement, Safety, and Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1220—SAFETY STANDARD FOR NON-FULL-SIZE BABY CRIBS

■ 1. Revise the authority citation for part 1220 to read as follows:

Authority: Sec. 104, Pub. L. 110–314, 122 Stat. 3016 (15 U.S.C. 2056a); Sec. 3, Pub. L. 112–28, 125 Stat. 273.

■ 2. Revise § 1220.2 to read as follows:

§ 1220.2 Requirements for non-full-size baby cribs.

(a) Except as provided in paragraph (b) of this section, each non-full-size baby crib shall comply with all applicable provisions of ASTM F406–19, *Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards,* approved March 15, 2019. The Director of the Federal Register approves the incorporation by reference listed in this section in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of this ASTM standard from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428–2959; *www.astm.org.* You may inspect a copy at the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

(b) Comply with the ASTM F406–19 standard with the following exclusions:

(1) Do not comply with sections 5.6.2 through 5.6.2.4 of ASTM F406–19.

(2) Do not comply with section 5.16.2 of ASTM F406–19.

(3) Do not comply with sections 5.19 through 5.19.2.2 of ASTM F406–19.

(4) Do not comply with section 7, *Performance Requirements for Mesh/Fabric Products,* of ASTM F406–19.

(5) Do not comply with sections 8.11 through 8.11.2.4 of ASTM F406–19.

(6) Do not comply with sections 8.12 through 8.12.2.2 of ASTM F406–19.

(7) Do not comply with sections 8.14 through 8.14.2 of ASTM F406–19.

(8) Do not comply with sections 8.15 through 8.15.3.3 of ASTM F406–19.

(9) Do not comply with section 8.16 through 8.16.3 of ASTM F406–19.

(10) Do not comply with sections 8.28 through 8.28.3.2 of ASTM F406–19.

(11) Do not comply with sections 8.29 through 8.29.3 of ASTM F406–19.

(12) Do not comply with sections 8.30 through 8.30.5 of ASTM F406–19.

(13) Do not comply with sections 8.31 through 8.31.9 of ASTM F406–19.

(14) Do not comply with sections 9.3.2 through 9.3.2.4 of ASTM F406–19.

PART 1221—SAFETY STANDARD FOR PLAY YARDS

■ 3. The authority citation for part 1221 is revised to read as follows:

Authority: Sec. 104, Pub. L. 110–314, 122 Stat. 3016 (15 U.S.C. 2056a).

■ 4. Revise § 1221.1 to read as follows:

§ 1221.1 Scope.

This part establishes a consumer product safety standard for play yards manufactured or imported on or after January 20, 2020.

■ 5. Revise § 1221.2 to read as follows:

§ 1221.2 Requirements for play yards.

(a) Except as provided in paragraph (b) of this section, each play yard must comply with all applicable provisions of ASTM F406–19, *Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards,* approved on March 15, 2019. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of this ASTM standard from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428–2959; *www.astm.org.* You may inspect a copy at the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

(b) Comply with the ASTM F406–19 standard with the following exclusions:

(1) Do not comply with section 5.17 of ASTM F406–19.

(2) Do not comply with section 5.20 of ASTM F406–19.

(3) Do not comply with section 6, *Performance Requirements for Rigid Sided Products,* of ASTM F406–19.

(4) Do not comply with sections 8.1 through 8.10.5 of ASTM F406–19.

(5) Instead of complying with section 9.4.2.10 of ASTM F406–19, comply only with the following:

(i) 9.4.2.10 For products that have a separate mattress that is not permanently fixed in place: Use ONLY mattress/pad provided by manufacturer.

(ii) [Reserved]

(6) Do not comply with section 10.1.1.1 of ASTM F406–19.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2019–23088 Filed 10–22–19; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[SATS No. MT–035–FOR; Docket ID: OSM–2013–0009; S1D1S SS08011000 SX064A000 201S180110; S2D2S SS08011000 SX064A000 20XS501520]

Montana 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 (OSMRE), 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 and additions to the Montana statute, known as the Montana Code Annotated (MCA) about permit application requirements, coal prospecting requirements, annual reporting requirements for coal permittees, and lawsuits related to damages to water supplies. Montana also proposed to revise its regulations, the Administrative Rules of Montana (ARM), to incorporate changes about a new short form coal prospecting permit process.

DATES: The effective date is November 22, 2019.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Chief, Denver Field Division, Telephone: (307) 261–6550. Email address: *jfleischman@osmre.gov.*

SUPPLEMENTARY INFORMATION:

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 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 in the April 1, 1980, **Federal Register** (45 FR 21560). Additionally, the removal of the conditions of approval of the Montana program can be found in the February 11, 1982, **Federal Register** (47 FR 6266). You can also find later actions concerning Montana's program and program amendments at 30 CFR 926.12, 926.15, 926.16, and 926.30.

II. Submission of the Proposed Amendment

By letter dated August 20, 2013, Montana sent OSMRE a proposed amendment to its regulatory program (Administrative Record Document ID No. OSM–2013–0009–0002) under SMCRA (30 U.S.C. 1201 *et seq.*). The proposed revisions were in response to changes made to the Montana Strip and Underground Mine Reclamation Act and the ARM that were a result of Montana Senate Bill 286 and subsequent Montana Senate Bill 92, which were approved at the 2011 and 2013 Montana legislative sessions.

We announced receipt of the proposed amendment in the October 25, 2013, **Federal Register** (78 FR 63911). 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. OSM–2013–0009–0001). We did not hold a public hearing or meeting, as neither were requested. The public comment period ended on November 25, 2013. We did not receive any public comments but did receive comments from two Federal agencies.

III. OSMRE'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 Statutes or Regulations

Montana proposed minor wording, editorial, punctuation, grammatical, citation, and cross-reference changes to the following previously approved rules and statutes. No substantive changes to the text of these regulations were proposed. Because these changes are minor, we find that they will not make Montana's statute or regulations inconsistent with Federal statute or regulations, less stringent than SMCRA, or less effective than the corresponding Federal regulations. The specific, minor changes are as follows:

- MCA 82–4–227(8), related to the applicant violator system; minor editorial change; counterpart Federal provision found at SMCRA 515(b)(12) (30 U.S.C. 1265(b)(12);
- MCA 82–4–237(1), (1)(a), (1)(b), (1)(c), (2), and (3), related to the operator filing annual reports; minor changes to statute with no Federal counterpart;
- ARM 17.24.1002(3), related to information and monthly reports; minor citation and cross-reference modifications; no Federal counterpart;
- ARM 17.24.1003(1), related to renewal and transfer of permits; minor changes to regulation with no Federal counterpart;
- ARM 17.24.1005(2)(d), related to drill holes; minor grammatical corrections; counterpart Federal regulations are found at 30 CFR 816.13, 816.14, and 816.15; and
- ARM 17.24.1016(3), related to bond requirements for drilling operations; minor changes to regulation with no Federal counterpart.

B. Revisions to Montana's Statutes and Regulations That Are in Accordance With and No Less Effective Than the Corresponding Provisions of SMCRA and the Federal Regulations

Montana proposed revisions to the following statutes or regulations containing language that is in accordance with and no less stringent than SMCRA. In addition, Montana's proposed revisions are no less effective than the corresponding sections of the Federal regulations. We are therefore approving the following changes:

- MCA 82–4–222(1)(k), (1)(l), (2), (2)(l), (2)(m), and (8), *Permit application—application revisions;* [SMCRA Sec. 507(b)(14) (30 U.S.C. 1257(b)(14)];
- MCA 82–4–226(1), (2), (7), (7)(b)(i), (7)(b)(ii), and (8), *Prospecting permit;* [SMCRA Sec. 512 (30 U.S.C. 1262) and 30 CFR 772];
- MCA 82–4–253(3)(d), *Suit for damage to water supply;* [SMCRA Sec. 717 (30 U.S.C. 1307)];
- ARM 17.24.1001(1)(b), (1)(c), (2), (2)(h)(iii)(F), (2)(q), and (7), related to permit requirements; [30 CFR 772.12 and 772.13]; and
- ARM 17.24.1019, *Permit Requirement—Short Form;* [30 CFR 772.11].

1. MCA 82–4–222(1)(k), (1)(l), (2), (2)(l), (2)(m), and (8)

The changes to MCA 82–4–222 are associated with general requirements that must be met upon submittal of a permit application to conduct coal mining. Montana's statute contains language that corresponds to SMCRA section 507(b) (30 U.S.C. 1257(b)) and the Federal regulations at 30 CFR 773.6, 779.24, 779.25, 783.24, and 783.25. The new language does not render Montana's statute less stringent than SMCRA nor less effective than the Federal regulations.

The change at MCA 82–4–222(1)(k) concerns the number of copies of geologic cross sections that must be submitted for a permit application. Montana proposes to change the number from ''two copies each of two sets'' to ''two sets.'' The counterpart SMCRA section 507(b)(14) (30 U.S.C. 1257(b)(14)) and the regulations at 30 CFR 779.25(a) and 783.25(a) do not specify the number of copies required, merely stating that the application shall include cross sections, maps, and plans showing elevations and locations of test borings and core samplings.

The change at MCA 82–4–222(1)(l) pertains to the type of newspaper that the permittee may use to give public notification of a permit application, significant permit revision, or permit renewal. Montana is changing the type of newspaper from a daily newspaper to any newspaper; however, the requirement that the notification must be published in the newspaper once a week for four consecutive weeks is unchanged. SMCRA sections 507(b)(6) and 513 (30 U.S.C. 1257(b)(6) and 30 U.S.C. 1263, respectively), and Federal regulations at 30 CFR 773.6 state that the notification must be published once per week for four weeks, but does not specify whether the newspaper must be published daily. Additionally, Montana is adding language that clarifies that the applicant must provide this public notification in a newspaper that is published in the locality of the proposed operation and that it will be published again within the State if an initial announcement was published outside of Montana. Federal requirements also mandate that publication in a local newspaper of general circulation in the locality of the proposed mining operation must occur.

The change to MCA 82–4–222(2) outlines the requirement that a prospective permit applicant must submit maps as part of the permit

application package, permit renewal, or significant permit revision. Montana proposes to simplify the requirement in this subsection from two copies of each map to an unspecified number of ''maps.'' The counterpart Federal regulations located at 30 CFR 779.24, 779.25, 783.24, and 783.25 similarly do not specify how many copies of each map must be submitted, only that the maps must be submitted.

Montana's modification to MCA 82–4–222(2)(l) concerns the requirement for a permit application to include information on pre-mining vegetation. Montana is proposing to eliminate references to ''varieties'' of plants and replace these references to ''species'' of plants and trees. In botanical nomenclature, variety is a taxonomic rank below species. In practice, it may be difficult and unnecessary to inventory existing vegetation at this level of specificity. Providing vegetation species information, including abundance per acre and general distribution, provides the regulatory authority with sufficient information to characterize the premining vegetation community composition and structure. Montana is also deleting language indicating that the required vegetation information will include, but not be limited to, grasses, shrubs, legumes, forbs, and trees. The revised provision is interpreted as requiring descriptions of all vegetation life forms without such enumeration.

The counterpart Federal regulations at 30 CFR 779.19 and 783.19 employ the terms ''vegetative types'' and ''plant communities'' and also grant the regulatory authority discretion on whether to require information on these topics in an application. Although there is no specific statutory basis to refer to, SMCRA section 515(b)(19) (30 U.S.C. 1265(b)(19)) requires that a permanent vegetative cover of the same seasonal variety native to the area must be established on reclaimed lands with limited exceptions. Implicit in provision is a requirement to collect information on pre-mining vegetation. OSMRE finds that this minor modification to MCA 82–4–222(2)(l) should have no effect on the implementation of this law because sufficient pre-mining vegetation information will be collected and provided in the permit application. This information, along with soils, climate, and land use information, will assist the regulatory authority in assessing the appropriateness of proposed revegetation plans and in predicting the potential for reestablishing vegetation upon final reclamation.

The change to MCA 82–4–222(2)(m) pertains to the certification and notarization of maps that are submitted as part of a permitting application. Montana is removing the language that previously stipulated the wording of professional certifications, and now simply requires certification by a professional engineer or professional land surveyor licensed as provided by Title 37, Chapter 67 of the MCA. SMCRA section 507(b)(14) (30 U.S.C. 1257(b)(14)) requires maps to be certified by a professional engineer or a professional geologist with assistance from experts in related fields, such as land surveying and landscape architecture. There are no implementing Federal regulations that specify the language to be included in certifications of these professionals.

The change to MCA 82–4–222(8) pertains to the public availability of a permit application, significant revision, or permit renewal. Specifically, Montana is adding language to the existing statute to allow this information to be made available at any accessible public office or facility approved by the regulatory authority. Previously, the public review file was required to be held by the clerk and recorder at the courthouse of the county where a major portion of the mining is to occur. Montana's change adds flexibility to the provision, while ensuring permit applications are publicly available at appropriate locations approved by the Montana Department of Environmental Quality (DEQ). SMCRA section 507(e) (30 U.S.C. 1257(e)) affords similar flexibility, providing that the application be publicly available either through the recorder at the courthouse of the county or an appropriate public office approved by the regulatory authority where the mining is to occur.

2. MCA 82–4–226(1), (2), (7), (7)(b)(i), (7)(b)(ii), and (8)

Montana is amending MCA 82–4–226 to modify coal-prospecting procedures to allow for a new type of prospecting permit when the prospecting is conducted to determine the location, quantity, and quality of coal that is outside an area designated as unsuitable, does not remove more than 250 tons of coal, and does not substantially disturb the land surface. The effect of the modifications to Montana's coal prospecting statute causes the process to have three tiers of prospecting regulation, rather than the existing two tiers.

The first tier is submittal of a notice of intent (NOI) to gather baseline data, identify access routes, locate drill hole locations and other relevant information outside an area designated as unsuitable for coal mining. Coal removal is not authorized under an NOI in Montana. The new second tier is referred to as the short form prospecting permit, which would be used for prospecting outside of areas designated as unsuitable for mining and where prospecting is conducted to determine the location, quantity, or quality of coal, but would not be used to authorize removal of more than 250 tons. The third tier is Montana's existing prospecting permit process, which the State will continue to follow in instances when prospecting activities will substantially disturb the land surface, remove more than 250 tons of coal, or be conducted within an area designated as unsuitable for coal mining. The performance standards about coal prospecting are codified in ARM Title 17, Chapter 24, Subchapter 10, and many of these standards are also being revised under this rulemaking. All prospecting activities discussed here are to occur outside of a valid coal mining permit area. When prospecting activities occur within a valid mining permit, those activities are appropriately regulated under the mining permit and a separate NOI or prospecting permit is unnecessary.

Montana is modifying MCA 82–4–226(1) to clarify that the standard prospecting permit requirements identified therein do not apply to activities conducted under either an NOI or the new short form permit processes. These exclusions clarify the distinction between the requirements for prospecting activities that will involve more significant land disturbances and therefore require a standard long form permit process and the requirements for prospecting activities that involve less significant surface disturbances and will therefore require either a short form permit or NOI.

Changes to subsection 7(a) further clarify that coal prospecting, which is not conducted on lands designated as unsuitable for mining, is not conducted to determine the characteristics of a coal deposit, and does not remove more than 250 tons of coal, requires an NOI rather than a prospecting permit. Montana's NOI process allows access to lands to gather baseline data or for planning purposes where very little surface disturbance is anticipated. A prospector may then apply for either a short or long form prospecting permit to remove coal and characterize the coal seam. Language deleted from existing subsection (7)(a) removes the ability to conduct prospecting to determine the location, quality, or quantity of a mineral deposit under an NOI. This type of activity now requires a short form prospecting permit.

The new short form prospecting permit process is outlined in subsections 7(b) and (8). The short form permit process applies to coal prospecting that is conducted to determine the characteristics of a coal deposit, does not significantly disturb the land surface, does not remove more than 250 tons of coal, and is conducted in an area that is not designated as unsuitable for coal mining. The addition of this section causes Montana to go from a two-tiered process to a more comprehensive, three-tiered process related to coal prospecting, as discussed above. Montana's short form prospecting permit is applicable to activities that would be regulated under an NOI under the approved Montana program.

Drilling operations, associated disposal pits, and groundwater monitoring wells will not be considered ''substantial surface disturbance'' for the purpose of this part and may be regulated under the short form permit process. Comparison of this proposed statutory basis for a definition of ''substantially disturb'' to the Federal definition located in 30 CFR 701.5 does not yield any conflicts that would render the Montana revisions less effective than the Federal regulations. The Federal definition of ''substantially disturb'' at 30 CFR 701.5 does not explicitly include or mention disturbance caused by exploration drilling or water monitoring well installation. The Federal definition indicates that substantial disturbance involves removal of more than 250 tons of coal, the same criterion that would invoke a more involved permitting process under the Montana program. Montana's use of the term ''associated disposal pits'' refers to drilling mud pits that constitute a disturbance less than that of the drilling pad, generally about one quarter to one half of an acre.

New section MCA 82–4–226(8) specifies the requirements for the new short form permits, including application contents, DEQ review and decision timeframes and procedures, public notification and comment procedures, and the approval processes. Short form permits must include specific contact information, a narrative description of the proposed area or a map of the area showing drill hole locations, occupied dwellings, roads, topography, hydrologic features, and pipelines. The application must also include documentation of the legal right to prospect, a statement of the period of intended prospecting, and a description of methods for prospecting and for reclaiming disturbances.

Under new subsection (8)(b), the DEQ will notify the applicant whether the application is complete and preliminarily acceptable within 10 working days of receipt. New subsection (8)(c) provides the applicant five working days to respond to any identified deficiencies. New subsection (8)(d) provides that when DEQ notifies the applicant that the application is complete, it will also indicate the required bond amount. New subsection (8)(e) indicates that after receipt of the completeness determination, the applicant will publish an advertisement in a newspaper of general circulation in the locality of the proposed prospecting activity describing the application and identifying where the public may review its contents and how to submit comments. The public is allowed 10 days from the date of publication to submit comments. Under new subsection (8)(f), the DEQ will issue its decision to accept or reject the application within five days of the close of the public comment period if no comments were received and within 10 days if comments are received. DEQ may identify necessary changes to the bond amount at that time.

New subsection (8)(g) indicates that short form permits are subject to subsections (3) through (6). This clarifies the exemption in subsection (1), which otherwise might be interpreted as excluding both NOI and short form prospecting permits from all requirements of subsections (1) through (6). Subsections (3) through (6) include requirements, such as performance bonds, a one-year renewable permit term, filing of progress reports, and other required, relevant information, which exceed the requirements for this type of exploration under Federal statute and regulation and the Montana program.

MCA 82–4–226(8) sets out substantively more requirements for the short form permitting process than the Federal counterpart provisions, which regulate this type of exploration activity under an NOI. Montana's short form prospecting requirements are no less stringent than SMCRA and no less effective than the implementing regulations. Specifically, OSMRE finds that the changes to MCA section 82–4–226 are no less stringent than SMCRA section 512 (30 U.S.C. 1262) and no less effective than the Federal regulations governing coal exploration at 30 CFR part 772.

3. MCA 82–4–253(3)(d)

Montana is amending its statute to make clear that coal mine operators are liable for replacing water supplies that have been diminished, interrupted, or contaminated by mining, regardless of whether surface or underground mining methods are employed. Although MCA 82–4–253 clearly applies to surface and underground mining operations, previous wording at subsection (3)(d) appeared to apply only to surface mines. This change clarifies the scope of the existing statute, which is consistent with and no less stringent than SMCRA and no less effective than the Federal regulations.

4. ARM 17.24.1001(1)(b), (2), (2)(h)(iii)(F), (2)(q), and (7)

Montana passed Senate Bill 286 to allow for a new type of coal prospecting permit, which caused Montana to have three tiers of prospecting processes depending on the specific conditions of the operation. ARM section 17.24.1001 formerly pertained to the only level of prospecting permit requirements in Montana, and is now being amended to acknowledge the addition of the short form permit process. Prospecting conducted under an NOI is not considered a permit and is not subject to ARM 17.24.1001.

Montana's change at ARM 17.24.1001(1)(b) adds language indicating that prospecting permit requirements apply where activities will be conducted to determine the location, quality, or quantity of the mineral using drilling methods. Drilling operations conducted to characterize the coal seam that remove less than 250 tons of coal and occur outside an area designated as unsuitable for mining would be subject to the short form permit requirements. This revision acknowledges that the short form is still a permit under Montana's program and that if drilling operations remove more than 250 tons of coal they would be regulated under the standard permit process. There are no Federal provisions that describe standards for prospecting or exploration operations analogous to Montana's program. SMCRA and the regulations promulgated thereunder regulate exploration operations that remove less than 250 tons of coal from lands outside those areas designated as unsuitable for mining under NOI requirements. These types of operations carry a lesser regulatory burden in terms of reporting, mapping, and bonding. Furthermore, exploration operations that remove more than 250 tons of coal or occur within lands designated unsuitable for mining under an exploration permit analogous to Montana's existing long form prospecting permit are regulated pursuant to SMCRA and the regulations promulgated thereunder. The Montana program applies prospecting permit

requirements to more types of activities than required under corresponding Federal exploration requirements as enumerated in 30 U.S.C. 1262.

The modification at ARM 17.24.1001(2) adds an exception to the listed permit requirements for drilling operations, which are subject to the short form permit requirements under MCA 82–4–226(8). This change clarifies the distinction between the standard prospecting permit and the new short form prospecting permit under MCA 82–4–226(8).

Montana's change at ARM 17.24.1001(2)(h)(iii)(F) is an editorial correction that fixes a reference to fish and wildlife habitat and species information that must be provided in maps.

The modification to ARM 17.24.1001(2)(q) corrects a reference to public notification requirements that must be satisfied upon submittal of a coal prospecting permit. This regulation now correctly refers the reader to ARM 17.24.303(1)(x), which concerns the filing of a newspaper advertisement and proof of publication.

Montana's existing ARM 17.24.1001(7) concerns the transfer of coal prospecting activities to a mining permit when such activities become part of a mining operation. Montana correctly incorporates reference to ARM 17.24.1019, which is the new short form permitting process, and also corrects a previously inaccurate cross-reference to ARM 17.24.308(1)(b) for mine permit operations plans.

5. ARM 17.24.1019

Montana is incorporating a short form permitting process for coal prospecting operations that are outside an area designated unsuitable for mining, do not remove more than 250 tons of coal, and do not substantially disturb the natural land surface. Montana's short form prospecting permit covers the types of activities that the Federal statute and regulations would capture under an NOI. Specifically, the Federal regulations at 30 CFR 772.11 dictate that the analogous requirements apply outside of a mining permit area. Although Montana's provision does not indicate that it applies only outside of a mining permit area, exploration activities within a valid mining permit would be regulated under the mining permit. The Montana DEQ does not intend to require a short form exploration permit within mining permit areas.

The content requirements for short form permits are primarily codified under Montana's statute at MCA 82–4–226(8). New regulation language at ARM 17.24.1019 reiterates the types of activities are regulated under the short form, stipulates that the short form must be filed with the DEQ on a provided form, and that the application must be reviewed and approved prior to the initiation of operations.

Montana will apply all parts of ARM 17.24 subchapter 10, except ARM 17.24.1001(1), (2), and (4) through (6), 17.24.1006(2), and (3)(b) and (c), 17.24.1007, 17.24.1009, 17.24.1014, and 17.24.1018, to short form prospecting permits. These are the standard long form permitting and NOI requirements, which appropriately do not apply to short form prospecting operations.

All the Montana proposed statute and regulation changes listed above contain language that is no less stringent than and no less effective than SMCRA and the corresponding Federal regulations. Furthermore, Montana's changes are not inconsistent with SMCRA and other provisions of the Federal regulations. Consequently, we are approving the amendments.

C. Revisions to Montana's Rules With No Corresponding Federal Regulations

Montana's proposed revisions to the following rules contain language that has no Federal counterpart, but also is no less stringent than SMCRA and is no less effective than the Federal regulations. We are therefore approving these changes.

1. ARM 17.24.1018(1)(b), (2), (4), (5)(a), (6), (7), (8), and (9)

Montana is changing ARM 17.24.1018, *Notice of Intent to Prospect,* to reflect the distinction between NOIs and the new short form prospecting permits. Language deleted from ARM 17.24.1018(1)(b) removes the ability to conduct prospecting activities for the purpose of determining the location, quality, or quantity of the coal without substantially disturbing the land surface under an NOI. These activities must now be conducted under a short form prospecting permit. Language added to ARM 17.24.1018(1)(b) indicates that activities such as locating drill holes and identifying access routes are appropriately conducted under an NOI. Although the Federal program does not make a similar distinction, this language is consistent with Montana's statutory authority under MCA 82–4–226. The Federal program allows coal extraction through drilling to occur under an NOI, while Montana's program now requires a short form permit for such activities.

Changes to ARM 17.24.1018(2) clarify that the existing regulation pertains only to NOIs and that NOIs must meet the requirements of ARM 17.24.1018(3) and (4). The change to ARM 17.24.1018(4) replaces ''permit'' with ''notice of intent'' because this section now only applies to NOIs. Changes to ARM 17.24.1018(5) delete the reference to prospecting permit requirements at ARM 17.24.1001(2)(a) through (i), and (2)(l) through (n) and replace these references with NOI requirements for maps specifying base layers, topography, hydrologic features, surface ownership, roads and access routes, locations of proposed monitoring facilities, and locations of pipelines and occupied dwellings. The Federal program does not delineate a tier of exploration, which involves only planning and monitoring activities without authority to construct roads or remove coal to characterize the seam. It is therefore not possible to compare the two programs in this regard. However, Montana's new language is similar to the mapping requirements for Federal NOIs under 30 CFR 772.11(b)(3) with the exception that drill holes and trenches and proposed roads would not be authorized under an NOI in Montana and as such are not included within the NOI map requirements.

Changes to ARM 17.24.1018(6) specify that the requirements of that part pertain only to the extent that the requirements are applicable to the proposed prospecting operation. Coal removal is not authorized under an NOI in Montana; therefore, surface disturbances would include only activities such as access road development or installation of monitoring equipment. The existing provision includes multiple cross references, which apply to operations involving coal removal or activities on protected lands. Because such activities would not be authorized under an NOI, Montana's revisions clarify that only the referenced provisions which are applicable to the proposed prospecting operation would be applied.

Changes to ARM 17.24.1018(7) are editorial in nature and clarify that when an applicant submits an NOI, the DEQ has 30 days to review and notify the person whether the NOI meets all applicable requirements.

Changes to ARM 17.24.1018(8) clarify that the requirement to have a copy of the NOI on-site pertains to all NOIs rather than only those that substantially disturb the land surface.

Changes to ARM 17.24.1018(9) update the list of prospecting permit requirements that do not apply to activities conducted under an NOI. These changes are appropriate due to the distinction between the types of activities authorized under NOIs and

prospecting permits and the requirements specified under each.

Because there are no Federal counterpart regulations to this portion of Montana's rules and because the use of the NOI process before issuing a prospecting permit is not inconsistent with provisions of the Federal program, OSMRE finds Montana's proposed changes to ARM 17.24.1018 to be no less effective than the Federal program.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record Document ID No. OSM–2013–0009–0001), 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. On August 28, 2013, we requested comments on Montana's amendment (Administrative Record Document ID No. OSM–2013–0009–0007).

We received one response letter dated October 25, 2013, from the Mine Safety and Health Administration (MSHA) stating that they had no comment (Administrative Record Document ID No. OSM–2013–0009–0008).

We also received an email from the National Park Service (NPS) on October 23, 2013, stating that they had no comment on the amendment (Administrative Record Document ID No. OSM–2013–0009–0009).

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i) and (ii), we are required to get 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.

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 August 28, 2013, we requested comments on Montana's amendment from the SHPO and the ACHP (Administrative Record Document ID No. OSM–2013–0009–0007), but neither responded to our request.

V. OSMRE's Decision

Based on the above findings, we approve Montana's August 20, 2013, amendment. To implement this decision, we are amending the Federal regulations at 30 CFR part 926, which codify decisions concerning the Montana program. In accordance with the Administrative Procedure Act (5 U.S.C. 500 *et seq.*), this rule will take effect 30 days after the date of publication. Section 503(a) of SMCRA (30 U.S.C. 1253) requires that the State's program demonstrate that it has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency between State and Federal standards.

VI. Statutory and Executive Order Reviews

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not effect a taking of private property or otherwise have taking implications that would result in public property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Orders 12866—Regulatory Planning and Review and 13563—Improving Regulation and Regulatory Review

Executive Order 12866 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, 1992, the approval of state program amendments is exempted from OMB review under Executive Order 12866. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

State program amendments are not regulatory actions under Executive Order 13771 because they are exempt from review under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by Section 3 of Executive Order 12988. The Department determined that this **Federal Register** notice meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct, rather than a general standard, and promote simplification and burden reduction. Because Section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** notice and to changes to the Federal regulations. The review under this Executive Order did not extend to the language of the State regulatory program or to the program amendment that the State of Montana drafted.

Executive Order 13132—Federalism

This rule is not a ''[p]olicy that [has] Federalism implications'' as defined by Section 1(a) of Executive Order 13132 because it does not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Instead, this rule approves an amendment to the Montana program submitted and drafted by that State. OSMRE reviewed the submission with fundamental federalism principles in mind, as set forth in Sections 2 and 3 of the Executive Order and with the principles of cooperative federalism, as set forth in SMCRA. *See, e.g.,* 30 U.S.C. 1201(f). As such, pursuant to Section 503(a)(1) and (7)(30 U.S.C. 1253(a)(1) and (7)), OSMRE reviewed the program amendment to ensure that it is ''in accordance with'' the requirements of SMCRA and is ''consistent with'' the regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes though a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal

sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175, and have determined that it has no substantial direct effects on federally recognized Tribes or on the distribution of power and responsibilities between the Federal government and Tribes. Therefore, consultation under the Department's Tribal consultation policy is not required. The basis for this determination is that our decision is on the Montana program that does not include Tribal lands or regulation of activities on Tribal lands. Tribal lands are regulated independently under the applicable, approved Federal program.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking 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 a significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

Executive Order 13405—Protection of Children From Environmental Health Risks and Safety Risks

This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866; and this action does not address environmental health or safety risks disproportionately affecting children.

National Environmental Policy Act

Consistent with Sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the Department of the Interior Departmental Manual, part 516, Section 13.5(A), State program amendments are not major Federal actions within the meaning of Section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (15 U.S.C. 3701 *et seq.*) directs OSMRE to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. (OMB Circular A–119 at p. 14). This action is not subject to the requirements of Section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA.

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

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 corresponding 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 corresponding 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; and (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 on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than $100 million per year. This rule does not have a significant or unique effect on State, local or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, surface mining, underground mining.

Dated: August 21, 2019.

David Berry,

Director, Western Region, Regions 5, 7, 8, 9, 10, 11.

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 an 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 20, 2013	October 23, 2019	ARM 17.24.1001(1)(b), (1)(c), (2), (2)(h)(iii)(F), (2)(q), and (7), *Permit Requirement;* ARM 17.24.1002(3), *Information and Monthly Reports;* ARM 17.24.1003(1), *Renewal and Transfer of Permits;* ARM 17.24.1005(2)(d), *Drill holes;* ARM 17.24.1016(3), *Bond Requirements for Drilling Operations;* ARM 17.24.1018(1)(b), (2), (4), (5)(a), (6), (7), (8), and (9), *Notice of Intent to Prospect;* ARM 17.24.1019, *Permit requirement—short form;* MCA 82–4–222(1)(k), (1)(l), (2), (2)(l), (2)(m), and (8), *Permit application—application revisions;* MCA 82–4–226(1), (2), (7)(a), (7)(b)(i), (7)(b)(ii), and (8), *Prospecting permit;* MCA 82–4–227 (8), *Refusal of permit—applicant violator system;* MCA 82–4–237(1), (1)(a), (1)(b), (1)(c), (2), and (3), *Operator to file annual reports;* MCA 82–4–253(3)(d), *Suit for damage to water supply.*

[FR Doc. 2019–22945 Filed 10–22–19; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[SATS No. VA–128–FOR; Docket ID: OSM–2016–0007; S1D1S SS08011000 SX066A000 201S180110; S2D2S SS08011000 SX066A000 20XS501520]

Virginia 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 (OSMRE), are approving an amendment to the Virginia regulatory program (the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The amendment revises the Virginia Coal Surface Mining Reclamation Regulations (the State regulations). The changes involve adding a provision to Virginia Administrative Code (VAC) to require Virginia to enter permit information into the Federal Applicant Violator System (AVS) and add a provision to the Virginia program to specify that the final compliance review conducted prior to permit issuance must occur no more than five business days before issuance.

DATES: The effective date is November 22, 2019.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Calhoun, Field Office Director, Charleston Field Office. Telephone: (304) 347–7158. Email: *rcalhoun@osmre.gov*.

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia 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 program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the requirements of this 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 Virginia program on December 15, 1981. You can find background information on the Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval, in the December 15, 1981, **Federal Register** (46 FR 61088). You can also find later actions concerning the Virginia program and program amendments at 30 CFR 946.12, 946.13, and 946.15.

II. Submission of the Amendment

By letter dated April 29, 2016 (Administrative Record No. VA 2033) Virginia sent an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*).

We announced receipt of the proposed amendment in the March 31, 2017, **Federal Register** (82 FR 16010). 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 May 1, 2017. No public comments were received.

III. OSMRE's Findings

Virginia submitted this program amendment to ensure consistency of Virginia and Federal regulations with respect to the AVS. The submission included changes to Title 4 of the VAC that includes the entry of permit information into the AVS upon receipt and review of an administratively complete application and to conduct a final compliance review prior to permit issuance no more than five business days before permit issuance. (Administrative Record No. VA 2033).

We are approving the amendment. Our specific findings concerning Virginia's amendment under SMCRA and the Federal regulations at 30 CFR 773.8 and 773.12 and the substantive changes to Virginia's Review of Permit Applications are described below.

4 VAC 25–130–773.15. Review of Permit Applications: Virginia seeks to revise subsection (a)(3) of this regulation, which addresses review of the information submitted under 4 VAC 25–130–778.13 and 4 VAC 25–130–778.14 about the applicant's or operator's permit histories, business structure, and ownership and control relationships. The division must also enter permit information into AVS upon receipt and review of an administratively complete application.

Additionally, in relationship to *4 VAC 25–130–773.15. Review of Permit Applications:* Virginia seeks to revise subsection (e) to provide that the final compliance review of a permit application, required under 4 VAC 25–130–773.15(b)(1), must be conducted no more than five business days before permit issuance under 773.19 of this part.

The amendment to subsection (a)(3) of 4 VAC–25–130–773.15 adds the requirement that all permit information that must be reviewed by the regulatory authority must also be entered into the AVS. The addition of this requirement renders the Virginia program no less effective than its Federal counterpart at