

(iv) Hypophosphorous acid and its salts

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Dated: August 30, 2000.

**Julio F. Mercado,**

*Deputy Administrator.*

[FR Doc. 00-24553 Filed 9-22-00; 8:45 am]

BILLING CODE 4410-09-P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 926

[SPATS No. MT-021-FOR]

#### Montana Abandoned Mine Land Reclamation Plan

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

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

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Montana abandoned mine land reclamation (AMLR) plan (hereinafter, the "Montana plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Montana proposes revisions to a statute about AMLR reclamation, proposes deletion of the AMLR rules in the Administrative Rules of Montana (ARM), and proposes a plan of reorganization of the AMLR program. Montana intends to revise its AMLR plan to be consistent with SMCRA, meet the requirements of the Federal regulations, and improve operational efficiency.

**DATES:** We will accept written comments on this amendment until 4 p.m., m.d.t., October 25, 2000. If requested, we will hold a public hearing on the amendment on October 20, 2000. We will accept requests to speak until 4 p.m., m.d.t., October 10, 2000.

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

You may review copies of the Montana plan, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East "B" Street, Federal Building, Room 2128, Casper, Wyoming 82601-1918, Telephone: (307) 261-6550.

Vic Anderson, Chief, Mine Waste Cleanup Bureau, Remediation Division, Montana Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 20091, Helena, MT 59620-0901, Telephone: (406) 444-4972.

Steve Welch, Chief, Industrial and Energy Minerals Bureau, Montana Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, MT 59620-0901, Telephone: (406) 444-4964.

**FOR FURTHER INFORMATION CONTACT:** Guy Padgett, Telephone: (307) 261-6550, Internet address: gpadgett@osmre.gov.

#### SUPPLEMENTARY INFORMATION:

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

#### I. Background on the Montana Plan

On November 24, 1980, the Secretary of the Interior conditionally approved the Montana plan as administered by the Department of State Lands. You can find general background information on the Montana plan, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Montana plan in the October 24, 1980, **Federal Register** (45 FR 70445). You can also find later actions concerning Montana's plan and plan amendments at 30 CFR 926.21 and 926.25.

#### II. Description of the Proposed Amendment

By letter dated August 15, 2000, Montana sent us a proposed amendment to its plan (SPATS No. MT-021-FOR, Administrative Record No. MT-18-01) under SMCRA (30 U.S.C. 1201 *et seq.*). Montana sent the amendment in response to the required plan amendment at 30 CFR 926.21(a) and at its own initiative. The full text of the plan amendment is available for you to read at the locations listed above under **ADDRESSES**.

Montana proposes to delete its AMLR rule definitions of "abandoned mine land reclamation fund," "emergency," and "extreme danger" at ARM 26.4.301 and its definitions of "abandoned mine land reclamation fund," "emergency," "expended," "extreme danger," "fund," "left or abandoned in either an unreclaimed or inadequately reclaimed condition," "Montana abandoned mine

reclamation program," and "reclamation activities" at ARM 26.4.1231.

Montana proposes to delete the AMLR rules at ARM 26.41232 through 26.41242, which concern the AMLR fund, eligible lands and water, reclamation objectives and priorities, reclamation project evaluation, consent to enter lands, land eligible for acquisition, procedures for acquisition, acceptance of gifts of land, management of acquired lands, disposition of reclaimed lands, and reclamation on private land.

In lieu of the deleted rules, Montana intends to rely on the requirements of its AMLR plan and on the statutory provisions at Montana Code Annotated (MCA) 82-4-239, 82-4-371, and 82-4-445. Montana proposes to revise MCA 82-4-239 to reflect the reorganized duties of the Board of Environmental Review and Department of Environmental Quality. Montana has changed the wording to delete "Board" and insert "Department" as appropriate. These proposed revisions are the same as those proposed by Montana on May 16, 1995 (SPATS No. MT-017-FOR, Administrative Record No. MT-14-01). At that time, OSM found no problems with the revisions to MCA 82-4-239 but deferred a decision on it due to a lack of information concerning the 1995 Montana reorganization and its impact on the AMLR plan. (For more information, see final rule **Federal Register** notice, 64 FR 3604, dated January 22, 1999.)

Lastly, in this amendment, Montana presents its 1995 reorganization moving the AMLR program from the Department of State Lands to the Department of Environmental Quality.

#### III. Public Comment Procedures

Under the provisions of 30 CFR 884.15(a), OSM requests your comments on whether the amendment satisfies the applicable State reclamation plan approval criteria of 30 CFR 884.14. If we approve the amendment, it will become part of the Montana plan.

#### Written Comments

Send your written comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. In the final rulemaking, we will not consider or include in the Administrative Record any comments received after the time indicated under **DATES** or at locations other than the Casper Field Office.

### *Electronic Comments*

Please submit Internet comments as an ASCII or WordPerfect file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS No. MT-021-FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Casper Field Office at (307) 261-6550.

### *Availability of Comments*

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law.

Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

### *Public Hearing*

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.d.t., October 10, 2000. If you are disabled and need special accommodations to attend a public hearing, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

### *Public Meeting*

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to

discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the Administrative Record.

### **IV. Procedural Determination**

#### *Executive Order 12630—Takings*

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

#### *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.

#### *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, to the extent allowable by law, 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 Montana AMLR plans and revisions thereof since each such plan is drafted and promulgated by Montana, not by OSM. Decisions on proposed Montana AMLR plans and revisions thereof submitted by a Montana AMLR are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231-1243) and the applicable Federal regulations at 30 CFR Parts 884 and 888.

#### *Executive Order 13132—Federalism*

This rule does not have Federalism implications within the meaning of Executive Order 13132. 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 405 of SMCRA authorized the creation of State AMLR programs for the purpose of reclaiming and restoring land and water resources adversely affected by past coal mining operations. Section 405(d) of SMCRA specifies the criteria for the approval and disapproval of these State abandoned mine reclamation programs

which are funded at 100 percent by grants from the Federal government.

### *National Environmental Policy Act*

No environmental impact statement is required for this rule since agency decisions on proposed Montana AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

### *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. 3507 *et seq.*).

### *Regulatory Flexibility Act*

The Department of the Interior has determined 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 Montana 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. Accordingly, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by Montana. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses 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), 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, geographic regions, or Federal, State or local governmental agencies; 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 upon the fact that the Montana 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 a cost of \$100 million or more in any given year on any governmental entity or the private sector.

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

Abandoned mine reclamation programs, Intergovernmental relations, Surface mining, Underground mining.

Dated: September 18, 2000.

**Brent Wahlquist,**

*Regional Director, Western Regional Coordinating Center.*

[FR Doc. 00-24581 Filed 9-22-00; 8:45 am]

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## **DEPARTMENT OF THE INTERIOR**

### **Office of Surface Mining Reclamation and Enforcement**

#### **30 CFR Part 926**

[SPATS No. MT-020-FOR]

#### **Montana 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:** The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Montana regulatory program (hereinafter, the "Montana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Montana proposed revisions to, and additions of statutes about, the definition of what constitutes a mine operator, the notice requirements for alternate reclamation plans; the use of introduced species on lands mined, disturbed, or redisturbed after May 2, 1978, and reseeded prior to January 1, 1984; a new statute section concerning subsidence; and other editorial revisions. Montana intends to revise its program to be consistent with SMCRA, provide additional safeguard, clarify ambiguities, and improve operational efficiency.

**DATES:** We will accept written comments on this amendment until 4 p.m., m.d.t. October 25, 2000. If requested, we will hold a public hearing on the amendment on October 20, 2000. We will accept requests to speak until 4 p.m., m.d.t. on October 10, 2000.

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

You may review copies of the Montana program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East "B" Street, Federal Building, Room 2128, Casper, Wyoming 82601-1918, Telephone: (307) 261-6550. Steve Welch, Chief, Industrial and Energy Minerals Bureau, Montana Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, MT 59620-0901, Telephone: (406) 444-4964.

**FOR FURTHER INFORMATION CONTACT:** Guy Padgett, Telephone: (307) 261-6550. Internet: gpadgett@osmre.gov.

#### **SUPPLEMENTARY INFORMATION:**

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

#### **I. Background on the Montana Program**

On April 1, 1980, the Secretary of the Interior conditionally approved the Montana program. You can find background information on the Montana program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Montana program in the April 1, 1980, **Federal Register** (45 FR 21560). You can also find later actions concerning Montana's program and program amendments at 30 CFR 926.15, 926.16, and 926.30.

#### **II. Description of the Proposed Amendment**

By letters dated July 20 and August 17, 2000, Montana sent us a proposed amendment to its program (Administrative Record No. MT-17-01) under SMCRA (30 U.S.C. 1201 *et seq.*). Montana sent the amendment in response to a June 5, 1996, letter (Administrative Record No. MT-17-03) that we sent to Montana in accordance with 30 CFR 732.17(c), and to include the changes made at its own initiative by the 1997 State legislature. In addition, Montana has included revisions from the 1995 State legislature which OSM approved in the January 22, 1999, **Federal Register** (64 FR 3604). The full text of this program amendment is available for you to read at the locations listed above under **ADDRESSES**.

The provisions of the Montana Code Annotated (MCA) that Montana

proposes to revise or add are: 82-4-203(21), MCA (Definitions); 82-4-232(7), MCA (Area mining required-bond-alternative plan); 82-4-233, MCA (Planting of vegetation following grading of disturbed area); 82-4-243, MCA (Subsidence); 82-4-253(2), MCA (Suit for damage to water supply); and 82-4-254(4), MCA (Violation-Penalty-Waiver).

Specifically, Montana proposes to revise the Montana program to (1) include uranium mining using in situ methods in the definition of operator; (2) require newspaper publication of alternate reclamation plans; (3) allow introduced species to compose a major or dominant component of the reclaimed vegetation for lands mined, disturbed, or redisturbed after May 2, 1978, and seeded prior to January 1, 1984; (4) allow for the prompt repair or compensation for material damage to any occupied residential dwelling and related structures and to any noncommercial building resulting from subsidence caused by underground mining operations; (5) promptly replace any drinking, domestic, or residential water supply from a well or spring that was in existence prior to the permit application that has been affected by contamination, diminution, or interruption resulting from underground coal mining operations; (6) include an editorial revision to MCA 82-4-253(2); and (7) propose a revision to MCA 82-4-254(4) to reflect the 1995 State reorganization to designate a director of environmental quality.

#### **III. Public Comment Procedures**

Under the provisions of 30 CFR 732.17(h), OSM requests 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 Montana program.

##### *Written Comments*

Send your written comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. In the final rulemaking, we will not necessarily consider or include in the Administrative Record any comments received after the time indicated under "**DATES**" or at locations other than the Casper Field Office.

##### *Electronic Comments*

Please submit Internet comments as an ASCII file avoiding the use of special