

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), 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 governmental 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 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 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 10, 2002.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 02-17654 Filed 7-12-02; 8:45 am]

BILLING CODE 4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[SPATS No. MT-023-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: We are announcing receipt of a proposed amendment to the Montana regulatory program (hereinafter, the "Montana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Montana proposes revisions, additions, and deletions to rules and statutes about the definitions, ownership and control, baseline information, maps, prime farmland, reclamation plan, ponds and embankments, transportation facilities plan, coal processing plants and support facilities, permit application, permit conditions, permit revisions, permit renewal, backfilling and grading requirements, small depressions, burial and treatment of exposed mineral seams, storage and final disposal of garbage, disposal of offsite-generated waste and fly ash, contouring, buffer zones, thick overburden and excess spoil, thick overburden and disposal of excess spoil, permanent cessation of operations, roads and railroad loops, soil removal, blasting schedule, permanent sealing of drilled holes, water quality performance standards, reclamation of drainages, sedimentation ponds and other treatment facilities, discharge structures and outflow structures, permanent and temporary impoundments, groundwater monitoring, surface water monitoring, wells and underground operations, redistribution and stockpiling of soil, establishment of vegetation, soil amendments and other management techniques, other revegetation comparison standards, vegetation production, cover, diversity, density, and utility requirements, measurement standards for trees, shrubs, and half-shrubs, postmining land use, alternate reclamation, general performance standards, subsidence controls, disposal of underground development waste, disposal of coal processing waste, information and monthly reports, renewal and transfer of permits, drill holes, roads and other transportation facilities, removal of equipment, test pits, bond release procedures, notice of

intent to prospect, bonding, reassertion of jurisdiction, areas upon which coal mining is prohibited, designation of lands unsuitable, small operator assistance program, certification of blasters, and blaster training courses. Montana also proposes to recodify the Administrative Rules of Montana from ARM 26.4 to ARM 17.24. Montana intends to revise its program to be consistent with the corresponding Federal regulations and SMCRA, provide additional safeguards, clarify ambiguities, and improve operational efficiency.

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

DATES: We will accept written comments on this amendment until 4 p.m., [m.d.t.] August 14, 2002. If requested, we will hold a public hearing on the amendment on August 9, 2002. We will accept requests to speak until 4 p.m., [m.d.t.] on July 30, 2002.

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

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

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, 100 East B Street, Casper, WY 82601-1918, (307) 261-6550, guypadgett@osmre.gov.
Neil Harrington, Chief, Industrial and Energy Minerals Bureau, Montana Department of Environmental Quality, 1520 E. Sixth Ave., PO Box 200901, Helena, MT 59620-0901, (406) 444-4964, nharrington@st.mt.us.

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

SUPPLEMENTARY INFORMATION:

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

I. Background on the Montana Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Montana program on April 1, 1980. You can find background information on the Montana program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Montana program in the April 1, 1980, **Federal Register** (45 FR 21560). You can also find later actions concerning Montana's program and program amendments at 30 CFR 926.15, 926.16, and 926.30.

II. Description of the Proposed Amendment

By letter dated May 7, 2002, Montana sent us a proposed amendment to its program (SPATS No. MT-023-FOR; Administrative Record No. MT-20-01) under SMCRA (30 U.S.C. 1201 *et seq.*). Montana sent the amendment in response to letters dated March 29, 1990; June 5, 1996; January 13, 1997; and June 26, 1997 (Administrative Record Nos. MT-60-07, MT-60-09, MT-60-10, and MT-60-11) that we sent to Montana in accordance with 30 CFR 732.17(c), in response to the required program amendment at 30 CFR 926.16(e)(9), and to include the changes made at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

The provisions of the Administrative Rules of Montana (ARM) that Montana proposes to revise, add or delete are: ARM 17.24.301(13), (34), (38), (46), (64), (69), (71), (72), (75), (95), (101), (103), (104), and (105), Definitions; 17.24.302, Format and Supplemental Information; 17.24.303, Legal, Financial, Compliance, and Related Information; 17.24.304, Baseline Information: Environmental Resources; 17.24.305, Maps; 17.24.306, Baseline Information: Prime Farmland Investigation; 17.24.313, Reclamation Plan; 17.24.315, Plan for Ponds and Embankments; 17.24.321, Transportation Facilities Plan; 17.24.324, Prime Farmland: Special

Application Requirements; 17.24.327, Coal Processing Plants and Support Facilities Not Located Within a Mine Permit Area: Special Application Requirements; 17.24.401, Filing of Application and Notice; 17.24.403, Informal Conference; 17.24.404, Review of Application; 17.24.405, Findings and Notice of Decision; 17.24.413, Conditions of Permit; 17.24.415, Permit Revisions; 17.24.416, Permit Renewal; 17.24.501, General Backfilling and Grading Requirements; 17.24.501A, Final Grading Requirements; 17.24.503, Small Depressions; 17.24.505, Burial and Treatment of Exposed Mineral Seams and Waste Materials; 17.24.507, Storage and Final Disposal of Garbage and Other Debris; 17.24.510, Disposal of Off-site Generated Waste and Fly Ash; 17.24.514, Contouring; 17.24.518, Buffer Zones; 17.24.519A, Thick Overburden and Excess Spoil; 17.24.520, Thick Overburden and Disposal of Excess Spoil; 17.24.522, Permanent Cessation of Operations; 17.24.601, General Requirements for Road and Railroad Loop Construction; 17.24.603, Road and Railroad Loop Embankments; 17.24.604, Soil Removal; 17.24.605, Hydrologic Impact of Roads and Railroad Loops; 17.24.606, Surfacing of Roads; 17.24.607, Maintenance of Roads and Railroad Loops; 17.24.623, Blasting Schedule; 17.24.625, Seismograph Measurements; 17.24.632, Permanent Sealing of Drilled Holes; 17.24.633, Water Quality Performance Standards; 17.24.634, Reclamation of Drainages; 17.24.639, Sedimentation Ponds and Other Treatment Facilities; 17.24.640, Discharge Structures and Outflow Structures; 17.24.642, Permanent and Temporary Impoundments; 17.24.645, Groundwater Monitoring; 17.24.646, Surface Water Monitoring; 17.24.647, Transfer of Wells; 17.24.652, Wells and Underground Openings: Safety; 17.24.702, Redistribution and Stockpiling of Soil; 17.24.711, Establishment of Vegetation; 17.24.713, Timing of Seeding and Planting; 17.24.716, Method of Revegetation; 17.24.718, Soil Amendments and Other Management Techniques; 17.24.724, Use of Revegetation Comparison Standards; 17.24.725, Period of Responsibility; 17.24.726, Vegetation Production, Cover, Diversity, Density, and Utility Requirements; 17.24.728, Composition of Vegetation; 17.24.733, Measurement Standards for Trees, Shrubs, and Half-Shrubs; 17.24.762, Postmining Land Use; 17.24.815, Prime Farmlands: Revegetation; 17.24.821, Alternate Reclamation: Submission of Plan; 17.24.823, Alternate Reclamation: Approval of Plan and Review of

Operations; 17.24.825, Alternate Reclamation: Alternate Revegetation; 17.24.826, Alternate Reclamation: Period of Responsibility for Alternate Revegetation; 17.24.901, General Application and Review Requirements; 17.24.903, General Performance Standards; 17.24.911, Subsidence Control; 17.24.924, Disposal of Underground Development Waste: General Requirements; 17.24.925, Disposal of Underground Development Waste: Valley Fill; 17.24.927, Disposal of Underground Development Waste: Durable Rock Fills; 17.24.932, Disposal of Coal Processing Waste; 17.24.1001, Permit Requirement; 17.24.1002, Information and Monthly Reports; 17.24.1003, Renewal and Transfer of Permits; 17.24.1005, Drill Holes; 17.24.1006, Roads and Other Transportation Facilities; 17.24.1010, Removal of Equipment; 17.24.1014, Test Pits: Application Requirements, Review Procedures, Bonding, and Additional Performance Standards; 17.24.1017, Bond Release Procedures for Drilling Operations; 17.24.1018, Notice of Intent to Prospect; 17.24.1103, Bonding: Period of Responsibility for Alternate Revegetation; 17.24.1104, Bonding: Adjustment of Amount of Bond; 17.24.1108, Bonding: Certificates of Deposit; 17.24.1111, Bonding: Bond Release Application Requirements; 17.24.1112, Bonding: Advertisement of Release Applications and Receipt of Objections; 17.24.1116, Bonding: Criteria and Schedule for Release of Bond; 17.24.1116A, Reassertion of Jurisdiction; 17.24.1132, Areas Upon Which Coal Mining is Prohibited: Definitions and Standard for Measurement of Distances; 17.24.1143, Designation of Lands Unsuitable: Prospecting on Designated Lands; 17.24.1221, Small Operator Assistance Program: Program Services; 17.24.1222, Small Operator Assistance Program: Eligibility for Assistance; 17.24.1223, Small Operator Assistance Program: Filing for Assistance; 17.24.1224, Small Operator Assistance Program: Application Approval and Notice; 17.24.1225, Small Operator Assistance Program: Data Requirements; 17.24.1226, Small Operator Assistance Program: Qualification of Laboratories, Consultants, and Contractors; 17.24.1228, Small Operator Assistance Program: Applicant Liability; 17.24.1261, Certification of Blasters and 17.24.1262, Blaster Training Courses. In addition, Montana proposes to recodify its rules from ARM 26.4 to 17.24.

The provisions of the Montana Code Annotated (MCA) that Montana proposes to revise are: MCA 82-4-205,

Administration by Department; 82-4-206, Procedure for Contested Case Hearings; 82-4-231, Submission of and Action on Reclamation Plan; 82-4-241, Receipts Paid into General Fund; and 82-4-254, Violation-Penalty-Waiver.

Specifically, Montana proposes to revise the definitions of "approximate original contour," "occupied residential dwelling and structures related thereto," "excess spoil," "other treatment facilities," "owned or controlled and owns or controls," "soil survey," and "sedimentation pond;" add definitions of "domestic water supply," "habit or characteristic pattern," "material damage," "non-commercial building," "railroad loop," "replace adversely affected domestic water supply;" and recodify other definitions at ARM 17.24.301.

At ARM 17.24.302, Montana proposes to refer to Federal lands instead of Federal coal, and revise the number of applications required for submission.

At ARM 17.24.303, Montana proposes to allow the applicant to request confidentiality on proprietary information.

At ARM 17.24.304, Montana proposes clarification revisions.

At ARM 17.24.305, Montana proposes revisions to delete qualified, registered land surveyors or professional geologists and only allow qualified licensed professional engineers and revisions concerning the preparation of maps.

At ARM 17.24.306, 17.24.324, 17.24.401, 17.24.724, 17.24.815, 17.24.823, and 17.24.825, Montana changes the reference from the U.S. soil conservation service to the U.S. natural resources conservation service.

At ARM 17.24.313, 17.24.632, 17.24.647, 17.24.652, 17.24.903, 17.24.925, 17.24.1001, 17.24.1005 through 17.24.1018, 17.24.1132, and 17.24.1143, Montana deletes "exploration" and adds "prospecting."

At ARM 17.24.315, Montana revises cross-references and adds requirements for a stability analysis and foundation information concerning ponds and embankments.

At ARM 17.24.321, Montana adds clarifying information concerning the transportation facilities plan, changes "rail system" to "railroad loop" and adds requirements for ramp roads.

At ARM 17.24.327, Montana revises a cross-reference.

At ARM 17.24.403, Montana makes grammatical revisions.

At ARM 17.24.404, Montana clarifies that if the initial judicial hearing authority either denies a stay or affirms a violation concerning a permit application, then the coal mining operations must be terminated within

30 days of the judicial decision unless the applicant provides proof that the violation has been or is in the process of being resolved to the satisfaction of the agency having jurisdiction over the violation.

At ARM 17.24.405, Montana proposes to delete an obsolete provision concerning OSM preparing written findings on Federal lands.

At ARM 17.24.413, Montana corrects a grammatical error.

At ARM 17.24.415, Montana clarifies language concerning permit revision applications.

At ARM 17.24.416, Montana deletes language referring to major permit revisions which they believe belongs in another section.

At ARM 17.24.501, Montana makes editorial revisions and adds necessary language concerning final grading requirements from 17.24.501A.

At ARM 17.24.501A, Montana proposes to delete this section and transfer the necessary programmatic language to ARM 17.24.501.

At ARM 17.24.503, Montana proposes to allow small depressions for wildlife use and eliminate size restriction on depressions.

At ARM 17.24.505, Montana proposes to add exposed mineral seams to this rule concerning the burial and treatment of waste materials, clarify that impoundments may not include acid, acid-forming, toxic, or toxic-forming wastes, and allow greater flexibility in the covering of exposed mineral seams with a requirement for a demonstration of protection with a lesser cover depth.

At ARM 17.24.507, Montana proposes to correct a cross-reference to PL 94-580.

At ARM 17.24.510, Montana primarily proposes to add and revise cross-references.

At ARM 17.24.514, Montana proposes to delete this rule as it is not needed.

At ARM 17.24.518, Montana proposes to correct a grammatical error.

At ARM 17.24.519A, Montana proposes to delete this rule and move the language to 17.24.520.

At ARM 17.24.520, Montana has added the former language from 17.24.519A, clarified that excess spoil would be used to eliminate highwalls, and has recodified the rule's subsections.

At ARM 17.24.522, Montana clarifies that an operator who permanently ceases mining operations, whether in all or part of the permit area, shall close or backfill and otherwise reclaim all affected areas, regardless of whether the permit has expired, been revoked, or suspended.

At ARM 17.24.601, Montana proposes to delete much of this rule due to

obsolete provisions concerning roads, add railroad loop construction, and clarify other subsections.

At ARM 17.24.603, Montana proposes to make this rule applicable to only road and railroad loop embankments as 17.24.639 addresses sediment pond embankments.

At ARM 17.24.604, Montana proposes to delete this rule concerning soil removal as it is covered at 17.24.701.

At ARM 17.24.605, Montana proposes to delete redundant or unnecessary language concerning the hydrologic impact of roads, make the rule applicable to railroad loops, and allow greater flexibility in impounding water under certain conditions at the site of water control structures.

At ARM 17.24.606, Montana proposes to delete this rule concerning the surfacing of roads as it is covered at 17.24.601.

At ARM 17.24.607, Montana proposes to add railroad loops to the maintenance of roads and eliminate other redundancies.

At ARM 17.24.623, Montana proposes to eliminate restrictions on when blasting may proceed.

At ARM 17.24.625, Montana corrects a cross-reference.

At ARM 17.24.633, Montana proposes clarifications to language concerning water quality performance standards.

At ARM 17.24.634, Montana proposes: (1) Various editorial revisions; (2) to move the definition of "natural habit and characteristic pattern of streams" to 17.24.301(46); (3) to delete the 120 day requirement for the design submittal "for more flexibility; (4) to eliminate the requirement that designs be certified by a registered, professional engineer; (5) to eliminate the requirement that the Department inspect all drainage channels prior to resoiling and seeding; and (6) to disallow an exception to having a channel "approximate an appropriate geomorphic habit or characteristic pattern."

At ARM 17.24.639, Montana proposes various changes to: (1) Revise the amount of sediment storage from 0.035 ac-ft/acre to 0.02 ac-ft per acre; (2) delete the requirement for a bathymetric survey; (3) make clarification, redundancy, and editorial corrections; (4) eliminate the requirement that excavated ponds require spillways; (5) make revisions in accordance with OSM's part 732 letter dated June 26, 1997, concerning the Energy Policy Act; (6) allow more flexibility for accounting for embankment settlement; and (7) allow steeper interior slopes for excavated ponds.

At ARM 17.24.640, Montana proposes to expand this rule concerning discharge structures to cover outflow sites.

At ARM 17.24.642, 17.24.645, and 17.24.646, Montana proposes to correct various cross-references.

At ARM 17.24.702, Montana proposes wording revisions for clarification.

At ARM 17.24.711, Montana proposes to add the requirement for a "predominance of native species" and self-regeneration of plants, and to correct a cross-reference.

At ARM 17.24.713, Montana proposes to delete the 90-day seeding requirement.

At ARM 17.24.716, Montana proposes to transfer a requirement for a permanent diverse vegetative cover of predominantly native species to 17.24.711 and provide a cross-reference to the statutes.

At ARM 17.24.718, Montana makes a grammatical correction.

At ARM 17.24.725, 17.24.726, and 17.24.728, Montana proposes to revise the cross-references to the correct statute citation.

At ARM 17.24.733, Montana proposes to delete a measurement standard for trees, shrubs, and half-shrubs, which has no Federal requirement.

At ARM 17.24.762, Montana proposes to revise the cross-reference to the correct rule citation.

At ARM 17.24.821 and 17.24.825, Montana proposes language to clarify cross-references and technical standards.

At ARM 17.24.826, Montana proposes a new rule to replace 17.24.1103.

At ARM 17.24.901 and 17.24.911, Montana proposes various revisions to address OSM's June 5, 1996, part 732 letter concerning the Energy Policy Act, which requires the prompt repair or compensation for material damage caused by subsidence to noncommercial buildings and occupied residential dwelling and related structures caused by underground coal mining operations conducted after October 24, 1992; and the replacement of drinking, domestic, and residential water supplies that have been adversely impacted by surface or underground coal mining operations conducted after that date.

At ARM 17.24.924, Montana proposes to delete subsection (15).

At ARM 17.24.927 and 17.24.932, Montana revises a cross-reference due to the deletion of ARM 17.24.924(15).

At ARM 17.24.1001, Montana proposes new language to alert landowners to the prospector's liability under a prospecting permit and the Department's responsibility to inspect prospecting operations for compliance

with the Act, the rules, and permit conditions.

At ARM 17.24.1002, Montana proposes revisions relating to prospecting operations which substantially disturb land or water resources and adds a requirement that annual reports be filed for prospecting operations in accordance with the statutes at MCA 82-4-226 and 82-4-237.

At ARM 17.24.1003, Montana proposes a new rule to reiterate language contained at 17.24.418.

At ARM 17.24.1014, Montana proposes to add the requirements that the notice of application be published by the applicant, and that the affirmative demonstration and written findings required for the application also address coal test pit prospecting.

At ARM 17.24.1018, Montana adds the requirements that the notice of intent to prospect include copies of the documents upon which the applicant bases his or her legal right to prospect on the land affected, as well as document that the landowners have been contacted concerning the notice of intent to prospect.

At ARM 17.24.1103, Montana proposes to delete this rule and insert it at ARM 17.24.826.

At ARM 17.24.1104, Montana proposes a new subsection to address bonding and OSM's June 5, 1996, part 732 letter concerning the Energy Policy Act.

At ARM 17.24.1108, Montana proposes to delete the reference to the FSLIC (Federal Savings and Loan Insurance Corporation).

At ARM 17.24.1111, Montana has added a requirement that each application for partial or full bond release include a notarized statement certifying that all applicable reclamation requirements have been achieved in accordance with the Act, the rules, and the approved reclamation plan.

At ARM 17.24.1112, Montana proposes to add the phrase "by any affected person" concerning the submission of comments on bond release applications.

At ARM 17.24.1116, Montana proposes to insert the language from 17.24.1116A concerning the reassertion of jurisdiction.

At ARM 17.24.1116A, Montana proposes to delete this section, as the language is contained at 17.24.1116.

At ARM 17.24.1221, concerning the small operator assistance program services, Montana adds a provision to allow funds to pay contractors and consultants. In addition, a cross-reference is made to services provided for in ARM 17.24.1225.

At ARM 17.24.1222, concerning the small operator assistance program eligibility, Montana revises the section to allow production of up to 300,000 tons of coal/year. Montana also revises the section to provide that the definition of ownership and control is based upon a greater than 10% interest in the operation.

At ARM 17.24.1223, Montana proposes to revise map specification for programmatic consistency and to allow for a legal right of entry for contractors and consultants participating in the small operator assistance program.

At ARM 17.24.1224, Montana changes the small operator assistance program application approval and notice to allow for contractors and consultants.

At ARM 17.24.1225, Montana adds additional data collection requirements concerning the small operator assistance program.

At ARM 17.24.1226, concerning the small operator assistance program qualification, Montana provides for consultants and contractors, clarifies language, and adds cross-references.

At ARM 17.24.1228, concerning the small operator assistance program liability, Montana provides for contractors and consultants, clarifies the coal production limit of 300,000 tons of coal/year, and makes the coal production limit effective within a 12-month period immediately following the date on which the permit was issued.

At ARM 17.24.1261, Montana proposes revisions to provide consistency with 17.24.1262, to revise the training manual on an as-needed basis, to eliminate cross-reference to a blaster's exam given by the Department of Labor, to lower the refresher course requirement to 16 hours, and to eliminate the option of meeting equivalent requirements for blaster certification.

At ARM 17.24.1262, Montana proposes to delete language which is also provided at 17.24.1261.

At MCA 82-4-205 and 82-4-206, Montana proposes to move the authority to conduct contested case hearings from the Department to the Board.

At MCA 82-4-231, Montana proposes revisions to the timeline for completing an environmental impact statement and adds a reference to a new Montana statute.

At MCA 82-4-241, Montana proposes that bond forfeiture moneys are only used for reclamation of lands on which bond forfeiture has occurred, and that funds held by the Department as bond or as a result of bond forfeiture that are no longer needed for reclamation and for which the Department is not able to

locate a surety or other person who owns the funds, must be deposited in the state special revenue fund and credited to the environmental rehabilitation and response account.

At MCA 82-4-254, Montana proposes revisions to reflect the change to move the authority for conducting contested case hearings from the Department to the Board.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Montana program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see Dates). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Casper Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS No. MT-023-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.] on July 30, 2002. If you are disabled and need special accommodations to attend a public hearing, 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 given an opportunity to be 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 are 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 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.

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. Section 503(a)(7) requires that state programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

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)).

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 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), 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 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: June 3, 2002.

Brent Wahlquist,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 02-17653 Filed 7-12-02; 8:45 am]

BILLING CODE 4310-05-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[Petition IV-2001-4; FRL-7245-5]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for CITGO Petroleum Corporation—Doraville Terminal; Doraville (DeKalb County), GA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to a state operating permit.

SUMMARY: Pursuant to Clean Air Act section 505(b)(2) and 40 CFR 70.8(d), the EPA Administrator signed an order, dated June 5, 2002, denying a petition to object to a state operating permit issued by the Georgia Environmental Protection Division (EPD) to CITGO Petroleum Corporation—Doraville Terminal (CITGO-Doraville) for its facility, located in Doraville, DeKalb County, Georgia. This order constitutes final action on the petition submitted by the Georgia Center for Law in the Public Interest (GCLPI or Petitioner) on behalf of the Sierra Club. Pursuant to section 505(b)(2) of the Clean Air Act (the Act) any person may seek judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of this notice under section 307 of the Act.

ADDRESSES: Copies of the final order, the petition, and all pertinent information relating thereto are on file at the following location: EPA Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The final order is also available electronically at the following address: http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/citgo_decision2001.pdf.

FOR FURTHER INFORMATION CONTACT: Art Hofmeister, Air Permits Section, EPA Region 4, at (404) 562-9115 or hofmeister.art@epa.gov.

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review

and, as appropriate, object to operating permits proposed by state permitting authorities under title V of the Act, 42 U.S.C. 7661-7661f. Section 505(b)(2) of the Act and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a title V operating permit within 60 days after the expiration of EPA's 45-day review period if EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

GCLPI submitted a petition on behalf of the Sierra Club to the Administrator on August 30, 2001, requesting that EPA object to a state title V operating permit issued by EPD to CITGO-Doraville. The Petitioner maintains that the CITGO-Doraville permit is inconsistent with the Act because the permit: (1) Does not contain adequate monitoring; (2) does not contain adequate reporting requirements related to monitoring; (2) impermissibly limits the use of credible evidence; (3) does not ensure the source's synthetic minor source status; and (4) did not undergo adequate public notice procedures.

On June 5, 2002, the Administrator issued an order denying this petition. The order explains the reasons behind EPA's conclusion that the Petitioner has failed to demonstrate that the CITGO-Doraville permit is not in compliance with the requirements of the Act on the grounds raised.

Dated: June 24, 2002.

A. Stanley Meiburg,

Deputy Regional Administrator, Region 4.

[FR Doc. 02-17692 Filed 7-12-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[Petition IV-2001-3; FRL-7245-6]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Seminole Road Landfill; Ellenwood (DeKalb County), GA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to a state operating permit.