

(a) By March 23, 1999, Montana shall submit a copy of the State's reorganization of the abandoned mine land reclamation plan, as well as all statutes and rules relating to the abandoned mine land reclamation plan revised subsequent to the final rule published in the **Federal Register** dates July 19, 1995 (60 FR 36998).

(b) [Reserved].

[FR Doc. 99-1445 Filed 1-21-99; 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-018-FOR]

#### Montana Regulatory Program

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is approving, with additional requirements, 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 rules pertaining to permit renewals, permit requirements, and notices of intent to prospect. The amendment was intended to revise the Montana program to be consistent with the corresponding Federal regulations and SMCRA, to provide additional safeguards, clarify ambiguities, and improve operational efficiency.

**EFFECTIVE DATE:** January 22, 1999.

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

**SUPPLEMENTARY INFORMATION:**

#### I. Background on the Montana Program

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

#### II. Proposed Amendment

By letter dated March 5, 1996, Montana submitted a proposed amendment to its program (Administrative Record No. MT-15-01) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Montana submitted the proposed amendment at its own initiative. The provisions of Administrative Rules of Montana (ARM) that Montana proposed to revise were: 26.4.410, ARM (permit renewal); 26.4.1001, ARM (prospecting permit requirement); and 26.4.1001A, ARM (notice of intent to prospect).

OSM announced receipt of the proposed amendment in the April 10, 1996, **Federal Register** (61 FR 15910), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (Administrative Record No. MT-15-04). Because no one requested a public hearing or meeting, none was held. The public comment period ended on May 10, 1996.

During its review of the amendment, OSM identified concerns at ARM 26.4.1001(1)(a) and 26.4.1001A(1) and (1)(b)(ii) relating to the removal of more than 250 tons of coal under a notice of intent. OSM notified Montana of the concerns by letter dated December 6, 1996 (Administrative Record No. MT-15-09).

Montana responded by submitting additional explanatory information in a letter dated November 6, 1997 (Administrative Record No. MT-15-12). The explanatory information consisted of a proposed statutory revision for a separate amendment currently under review by OSM (SPATS No. MT-017-FOR; Administrative Record No. MT-14-01). Instead of revising the proposed rules to address OSM's concerns with prospecting permit requirements and a notice of intent to prospect, Montana explained that proposed statutory revisions made by the 1997 Montana legislature to the Montana Code Annotated at 82.4.226(8), MCA, to require a permit for prospecting when more than 250 tons of coal would be removed, would resolve OSM's concerns.

Based upon the additional explanatory information for the proposed program amendment submitted by Montana, OSM reopened the public comment period in the December 2, 1997, **Federal Register** (62 FR 63685; Administrative Record No. MT-15-13). Because no one requested a public hearing or meeting, none was held. The reopened public comment period ended on December 17, 1997.

Also being considered in this final approval of SPATS No. MT-018-FOR

(Administrative Record No. MT-15-01) is language from an earlier submitted amendment, SPATS No. MT-003-FOR (Administrative Record No. MT-12-01; dated February 1, 1995) insofar as it relates to the requirements for prospecting permits and notices of intent to prospect. Montana originally proposed revisions to ARM 26.4.1001 and proposed to add ARM 26.4.1001A in SPATS No. MT-003-FOR.

Before OSM was able to take action on MT-003-FOR, Montana proposed further revisions to ARM 26.4.1001 and 26.4.1001A as part of the SPATS No. MT-018-FOR. Therefore, OSM is considering and taking action on all revisions to ARM 26.4.1001 and 26.4.1001A as part of SPATS No. MT-018-FOR, and is removing the proposed revisions from SPATS No. MT-003-FOR. Montana agreed to this approach in a telephone conversation on January 23, 1998 (Administrative Record Nos. MT-12-21 and MT-15-14).

The definition of "substantially disturb", which was submitted in the State's February 6, 1996, response (SPATS No. MT-003-FOR; Administrative Record No. MT-12-19) to OSM's issue letter dated October 17, 1995 (Administrative Record No. MT-12-16), is also being considered for approval in SPATS No. MT-018-FOR and is being withdrawn from SPATS No. MT-003-FOR.

#### III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds, with additional requirements, that the proposed program amendments submitted by Montana on March 5, 1996, and as supplemented with additional explanatory information on November 6, 1997, is no less effective than the corresponding Federal regulations and no less stringent than SMCRA. Accordingly, the Director approves the proposed amendment.

##### 1. Nonsubstantive Revisions to Montana's Rules

Montana proposed revisions to the following previously-approved rules that are nonsubstantive in nature and consist of minor editorial, grammatical, or recodification changes (corresponding Federal provisions are listed in parentheses):

26.4.1001, ARM, subsections (1) (codification) and (2) (introductory text and codification), (30 CFR 772.12), prospecting (coal exploration) permits.

Because the proposed revisions to these previously-approved rules are nonsubstantive in nature, the Director

finds that these proposed Montana rules revisions are no less effective than the Federal regulations. The Director approves these proposed rules.

## 2. Substantive Revisions to Montana's Rules That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

Montana proposed to revise its programs by adding the following rules that are substantive in nature and contain language that is substantively identical to the requirements of the corresponding Federal regulation provisions (listed in parentheses).

- 26.4.1001, ARM, subsection (1)(b), (30 CFR 772.12(a) (in part)), requirements for prospecting permits;
- 26.4.1001, ARM, subsection (2)(c), (30 CFR 772.12(b)), requirements for prospecting permits;
- 26.4.1001, ARM, subsection (2)(g)(iii)(A) and (C), (30 CFR 772.12(b)), requirements for prospecting permits;
- 26.4.1001, ARM, subsections (4) and (5), (30 CFR 815.13, 772.13, and 815.1), performance standards applicable to prospecting (coal exploration) under prospecting permits and requirements to keep the permit on-site;
- 26.4.1001A, ARM, subsections (1), (3) (introductory text), (3)(a), (4) (introductory text), and (4)(a), (30 CFR 772.11(a) (in part) and (b)), requirements for notices of intent to prospect (conduct coal exploration); and
- 26.4.1001A, ARM, subsections (4)(c) (in part), (6), and (7), (30 CFR 772.13 and 815.13), performance standards applicable to prospecting (coal exploration) under notices of intent and requirement to keep documents on-site.

Because these proposed Montana rules are substantively identical to the corresponding provisions of the Federal regulations, the Director finds that they are no less effective than the Federal regulations. The Director approves these proposed rules.

## 3. ARM 26.4301(114), Definition of "Substantially Disturb"

On February 6, 1996, Montana proposed a definition of "substantially disturb" which is substantially similar to the Federal definition at 30 CFR 701.5, except that it does not include the removal of more than 250 tons of coal (SPATS No. MT-003-FOR; Administrative Record No. MT-12-19).

The Federal definition of "substantially disturb" at 30 CFR 701.5 provides that anytime an exploration operation removes more than 250 tons of coal, the operation would "substantially disturb" the natural land surface. This would require that performance standards be met, as the Federal regulations at 30 CFR 815.1 and 772.13(a) provide that the performance

standards therein apply to coal exploration and reclamation activities which "substantially disturb" the natural land surface.

Montana subsequently proposed a statutory revision at MCA 82-4-226(8) in a response dated November 6, 1997. The revised statute would require that: (1) prospecting which removes less than 250 tons of coal is not subject to the prospecting permit requirements of MCA 82-4-226 (1) through (7) (except if conducted on lands unsuitable); and (2) prospecting conducted to determine the location, quality, or quantity of a mineral deposit outside an area designated unsuitable, that does not remove more than 250 tons of coal, and that does not substantially disturb the natural land surface, is not subject to the prospecting permit requirements at MCA 82-4-226 (1) through (7) (SPATS No. MT-017-FOR; Administrative Record No. MT-15-12). These revisions now require the operator to obtain a permit when more than 250 tons of coal will be removed or which will take place on lands designated as unsuitable for surface mining.

The 250 ton limit serves two purposes in the Federal regulations: (1) it determines when a notice of intent to explore (prospect) may be allowed, as opposed to when a permit is required (30 CFR 772.11(a) vs. 772.12(a)); and (2) it determines if the performance standards of 30 CFR Part 815 must be met (30 CFR 772.13 and 815.1). Montana's statutory changes in SPATS No. MT-017, Administrative Record No. Series MT-014-FOR, satisfactorily accomplish purpose # 1 above. Purpose # 2 above is addressed at proposed ARM 26.4.1001(5) and 1001A(7) which require all prospecting, regardless of extent of disturbance (under permits or notice of intent, respectively), to meet the performance standards of ARM, Chapter 10. ARM 26.4.1001(5) specifically states that prospecting operations under a permit are subject to the performance standards of ARM, Chapter 10. ARM 26.4.1001A(7) states that prospecting operations under a notice of intent are subject to all the performance standards of ARM, Chapter 10, except those which relate to a permit, permit transfer, bonding, and permit renewal. OSM notes that the performance standards of Chapter 10 are currently being revised in connection with the program amendment submitted February 1, 1995, as SPATS No. MT-003-FOR (Administrative Record No. MT-12-01). Based on the above discussion, the Director is approving the definition of "substantially disturb" at ARM 26.4.1001.

## 4. ARM 26.4.410, Permit Renewal

Montana proposes to require that an application for permit renewal be filed at least 240 days, and no more than 300 days, prior to permit expiration. Both the State and Federal regulations provide a procedural time period for the involved parties to file an application for permit renewal prior to the expiration of the valid permit. Section 506(d)(3) of SMCRA and 30 CFR 774.15(b)(1) only require that such filing shall be made *at least* 120 days prior to the expiration of the valid permit. The Federal requirement, unlike the State's proposal, does not set a limit on how far in advance an applicant may submit an application for permit renewal. The State proposal is a procedural requirement which provides involved parties with similar rights and remedies as those provided by SMCRA at Section 506(d)(3) and 30 CFR 774.15(b)(1).

The Director finds that the State's proposed revision is no less stringent than SMCRA and no less effective than the Federal regulations at 30 CFR 774.15(b)(1). The Director approves the proposed amendment.

Montana has proposed an identical change to its statutes at MCA 82-4-221(1) which is also under consideration by OSM at this time (SPATS No. MT-017-FOR; Administrative Record No. MT-14-01). A final **Federal Register** notice is being published simultaneously on the statutory revision.

## 5. ARM 26.4.1001 and 26.4.1001A, Prospecting

Montana initiated proposed revisions to ARM 26.4.1001 and the addition of 26.6.1001A in its February 1, 1995, submittal (SPATS No. MT-003-FOR; Administrative Record No. MT-12-01), in order to implement the new statutory provision for prospecting under notices of intent that was approved by OSM on February 1, 1995 (60 FR 6006). On March 5, 1996, Montana submitted further revisions to ARM 26.4.1001 and 26.4.1001A in a new submittal, now the subject of this **Federal Register** action (SPATS No. MT-018-FOR; Administrative Record No. MT-15-01). Many of the proposed revisions or additions are nonsubstantive or are substantively identical to the corresponding Federal counterparts and are addressed in Finding Nos. 1 and 2 above. Montana has also proposed statutory revisions addressing prospecting, which are being considered in a separate rule making action being published concurrently with this one.

a. Proposed Requirements for Prospecting Permits

Montana proposes at ARM 26.4.1001(1) that a prospecting operation must be conducted under a prospecting permit if it will either: (1) be conducted on lands designated unsuitable for mining (no matter what the purpose or scope of the operation); or (2) is intended to collect data on the minerals (rather than on the environment) and will substantially disturb the land surface. A proposed statutory provision being concurrently evaluated (82-4-226(8), MCA; see SPATS No. MT-017-FOR) also requires that any prospecting operation that removes more than 250 tons of coal must be conducted under a prospecting permit. In sum, a prospecting permit would be required for any prospecting operation which: (1) is conducted on lands unsuitable; (2) removes more than 250 tons of coal; or (3) is conducted to collect mineral rather than environmental data and substantially disturbs the land surface.

The Federal regulations at 30 CFR 772.12(a) similarly require a coal exploration permit for operations which will be conducted on lands designated as unsuitable for mining or which will remove more than 250 tons of coal. There is no Federal provision requiring a prospecting permit for the third class of operations proposed by Montana; however, OSM believes that requiring prospecting permits for this class of operations will assist Montana in the effective implementation of its program. Under 30 CFR 730.11(b), no State rule providing for more stringent environmental controls shall be found to be inconsistent with OSM regulations. With the understanding that the proposed statutory provisions at 82-4-226(8), MCA, is being simultaneously approved, the Director finds that the proposed rule revisions at ARM 26.4.1001(1) are no less effective than the Federal requirements at 30 CFR 772.12(a) and is approving the revisions.

b. Proposed Requirements for Prospecting Under Notice of Intent To Prospect

Montana proposes at ARM 26.4.1001A(1) that prospecting operations may be conducted under a notice of intent to prospect (rather than requiring a prospecting permit) if the proposed prospecting operation: (1) will not be conducted on lands designated unsuitable for mining; and either (2), is intended to collect data on the environment (rather than on the minerals); or (3), is intended to collect data on the minerals but will not

substantially disturb the land surface. A proposed statutory provision being concurrently evaluated (82-4-226(8), MCA; see SPATS No. MT-017-FOR) also requires that any prospecting operation that removes more than 250 tons of coal must be conducted under a prospecting permit. In sum, a notice of intent to prospect would be allowed only for those prospecting operations which: (1) are not conducted on lands unsuitable; (2) remove less than 250 tons of coal; and (3) are conducted to collect environmental data or, if conducted to collect mineral data, will not substantially disturb the land surface.

The Federal regulations at 30 CFR 772.11(a) similarly allow notices of intent for operations which will not be conducted on lands designated as unsuitable for mining and which will not remove more than 250 tons of coal (summary items #1 and #2 above). The Federal regulations do not address the purpose of exploration and hence, do not address Montana's third class of operations. However, OSM notes that any of that third class of prospecting operations (those conducted to obtain mineral data but do not substantially disturb the land surface and those that collect only environmental data), would be required by proposed ARM 26.4.1001(1) (discussed under Finding No. 5a above) to operate under a prospecting permit if they either: (1) occur on lands unsuitable or, (2) remove more than 250 tons of coal. In the event that these two rule requirements might be interpreted to conflict, the proposed statutory provision at MCA 82-4-226(8) (being concurrently evaluated) clearly limits notices of intent to prospecting that does not occur on lands unsuitable and that does not remove more than 250 tons of coal; see also the discussion under Finding No. 3 above. Therefore, under the Montana proposal taken together with the proposed statutory revision, no prospecting operation could be conducted under a notice of intent that would, under the Federal requirements, require a coal exploration permit.

With the understanding that the proposed statutory provision at 82-4-226(8), MCA, is being simultaneously approved, the Director finds that the proposed rule additions at ARM 26.4.1001A(1) are no less effective than the Federal requirements at 30 CFR 772.11(a) and is approving the revisions.

c. Content Requirements for Notices of Intent to prospect

Montana has proposed several requirements for the contents of notices of intent; most are approved in Finding

No. 2 above. But Montana has also proposed requirements for which there is no corresponding Federal provision, particularly at ARM 26.4.1001A(2) and (3)(b) (information needed for Montana to determine the purpose of the prospecting and whether it will substantially disturb the land surface), and ARM 26.4.1001A(4)(b) (reports to be provided to assist investigations).

OSM notes that the Federal program does not address the purpose of exploration activities, but believes that these provisions will assist Montana in the effective implementation of its program. OSM also notes that under Montana's proposal, all prospecting operations would be required to meet prospecting performance standards, regardless of their purpose and whether they substantially disturb the land surface (see proposed ARM 26.4.1001(5) and 26.4.1001(7) which are approved in Finding No. 2 above). Therefore the Director finds that these proposed rule additions do not conflict with any Federal requirements, and approves the proposed rules.

d. Procedural Requirements for Prospecting Permits and Notices of Intent

Montana has proposed several requirements for processing notices of intent and prospecting permits for which there is no corresponding Federal provision, particularly at ARM 26.4.1001(3) (in part) and 26.4.1001A(2) (in part) (expiration of permit and notice of intent after one year); and 26.4.1001A(5) (Departmental response to applicant on notice of intent regarding proposed extent of disturbance).

OSM believes that these provisions will assist Montana in the effective implementation of its program. OSM also notes that under Montana's proposal, all prospecting operations would be required to meet prospecting performance standards, regardless of whether they substantially disturb the land surface (see proposed ARM 26.4.1001(5) and 26.4.1001A(7) which are approved in Finding No. 2 above). Therefore the Director finds that these proposed rule additions do not conflict with any Federal requirements, and approves the proposed rules.

However, in the course of evaluating this submittal, OSM noted that proposed ARM 26.4.1001(3) would provide that prospecting permits are subject to renewal, suspension, and revocation in the same manner as mining permits; but the proposal would not provide for permit issuance procedures, which would include such requirements as public review and

comment, and administrative and judicial appeals. Upon further review, OSM found that under the Montana program only "test pit prospecting permits" are subject to the permit issuance procedures of Subchapter 4 (see ARM 26.4.401(1)).

The Federal regulations at 30 CFR 772.12(c), (d), and (e), and 772.15, provide for public notice and opportunity to comment on prospecting permit applications, regulatory authority decisions on such applications, notice and hearing requirements on the prospecting applications, and for public availability of permit information. These Federal requirements apply to all prospecting permits, not just those that involve surface excavations. Therefore the Director is requiring Montana to amend its program (at ARM 26.4.401, 26.4.1001, or otherwise) to provide for permit issuance procedures, including public comment, administrative and judicial appeal, and public availability of information, for all prospecting permits.

#### IV. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

##### 1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

##### 2. Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Montana program.

Three agencies responded that they had no comments: the U.S. Army Corps of Engineers (April 15, 1997; Administrative Record No. MT-15-05); the Bureau of Indian Affairs (April 19, 1997; Administrative Record No. MT-15-07); and the Montana Department of Fish, Wildlife and Parks (May 10, 1997; Administrative Record No. MT-15-08).

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

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed amendment that relate to air or water quality standards promulgated 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.*).

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. MT-15-03). The proposed amendment does not concern air quality or water quality, and EPA did not submit comments.

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

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and the ACHP (Administrative Record No. MT-15-03). The SHPO responded on April 19, 1997, that they had no comments (Administrative Record No. MT-15-06). The ACHP did not respond.

#### V. Director's Decision

Based on the above findings, the Director approves, with certain additional requirements, Montana's proposed amendment as submitted on March 5, 1996, and as supplemented with additional explanatory information on November 6, 1997.

The Director approves, as discussed in: Finding No. 3, ARM 26.4.301(114), the definition of substantially disturb; Finding No. 4, ARM 26.4.410, concerning permit renewals; Finding Nos. 1, 2, 5a and 5d, ARM 26.4.1001 (except 26.4.1001(3)); and Finding Nos. 2, 5b, 5c, and 5d, ARM 26.4.1001A, concerning notices of intent to prospect.

With the requirement that Montana further revise its program, the Director approves, as discussed in Finding No. 5d, ARM 26.4.1001(3), concerning the procedural requirements for prospecting permits.

The Federal regulations at 30 CFR Part 926, codifying decisions concerning the Montana program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

#### VI. Procedural Determinations

##### 1. Executive Order 12866

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

##### 2. Executive Order 12988

The Department of the Interior has conducted the reviews required by Section 3 of Executive Order 12988

(Civil Justice Reform) 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 since each such 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.

##### 3. National Environmental Policy Act

No environmental impact statement is required for this rule since 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)).

##### 4. 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.*).

##### 5. 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 State submittal that 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 previously promulgated by OSM will be implemented by the State. 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.

##### 6. 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**

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 28, 1998.

**Russell F. Price,**

*Acting Regional Director, Western Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII,

Subchapter T of the Code of Federal Regulations is amended as set forth below:

**PART 926—MONTANA**

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

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

2. Section 926.15 is amended in the table by adding a new entry in

chronological order by "Date of Final Publication" to read as follows:

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

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* March 5, 1996 .....	* January 22, 1999 .....	* * * * * ARM 26.4.301(114); 26.4.410; 26.4.1001; and 26.4.1001A.

3. Section 926.16 is amended by adding paragraph (l) to read as follows:

**§ 936.16 Required program amendments.**

\* \* \* \* \*

(l) By March 23, 1999, Montana shall revise ARM 26.4.1001, ARM 26.4.401,

or otherwise modify its program, to provide for public notice and opportunity to comment on prospecting permit applications, regulatory authority decisions on such applications, and notice and hearing requirements on prospecting permit

applications, to be no less effective than 30 CFR 772.12(c), (d), and (e), and 772.15.

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