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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.

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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 at 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

characters and any form of encryption. Please also include "Attn: SPATS No. MT-020-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 October 10, 2000. 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 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 regulations.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) and 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 had 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 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.

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 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.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

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 (4 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 established by SMCRA or 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.

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 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 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: September 19, 2000.

Brent Wahlquist,

Regional Director, Western Regional Coordinating Center.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 152 and 156

[OPP-250129; FRL-6747-1]

RIN 2070-AC46

Ground Water Pesticide Management Rule; Notification to the Secretary of Agriculture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: This document notifies the public that the Administrator of EPA has forwarded to the Secretary of Agriculture a draft final rule under section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The draft final rule establishes a program whereby States and Tribes will develop and implement plans to manage the use of pesticides determined to leach to ground water. The rule also identifies four pesticides of concern to be managed under this program initially. The four pesticides can continue to be used if States and Tribes develop plans which will ensure they do not leach to ground water at concentrations that may be harmful to human health and the environment.

The rule designates the four chemicals as Restricted Use pesticides under section 3(d)(1)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The restriction prohibits all outdoor use of the pesticides unless used in accordance with a Pesticide Management Plan (PMP) developed by States and Tribes and approved by EPA. If a State or Tribe fails to submit or obtain approval of its PMP by a date 36

months from the effective date of the Rule, users in that State or Tribal land are prohibited from using the pesticide.

FOR FURTHER INFORMATION CONTACT: By mail: Arthur Jean B. Williams, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-5239; e-mail address: williams.arty@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are involved in the production, sale, use, or regulation of one or more of the four chemicals or formulations specified in this regulation. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Producers	32532	Pesticide Registrants; Pesticide Formulators
Distributors	444	Farm Supplies Retail, Lawn and Garden Supply Stores, Farm Supplies Wholesale
Regulators	921 92115	State Legislative and Executive Bodies Tribal Governments
Users	111 56171 71391 81411	Crop Production (Growers) Lawn Pesticide Applicators Golf Course Applicators Homeowners

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. Electronically. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. In person. The Agency has established an official record for this action under docket control number OPP-250129. The official record consists of the documents specifically referenced in this action, and other information related to this action found in docket numbers OPP-36190 and 36190A, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which