

tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 2, 2003.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 03-27044 Filed 10-24-03; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[MT-024-FOR]

Montana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), 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 to make editorial and substantive revisions to the Montana Strip and Underground Mine Reclamation Act (MSUMRA) provisions in the Montana Code Annotated (MCA) that pertain to: State policy and findings concerning mining and reclamation; definitions; the time required to approve or disapprove minor permit revisions; permit application requirements, including determinations of probable hydrologic consequences and land use; requirements to protect the hydrologic balance; area mining, post-mine land use, and wildlife enhancement; revegetating disturbed areas; timing of reclamation; standards for successful revegetation; making vegetation the landowner's property after bond release; jurisdictional venue in right-of-entry actions; transfer of revoked permit; and mandamus. The State also proposes to add new provisions to the MSUMRA for: Revising applications for permits, permit amendments, and permit revisions; codifying the changes proposed in the amendment; clauses for severability, saving, and contingent

voidness; and a delayed effective date for the proposed changes. Montana intends to revise its program to incorporate the additional flexibility afforded by the revised Federal regulations and SMCRA, as amended, to provide additional clarification, and to 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., mountain daylight time November 26, 2003. If requested, we will hold a public hearing on the amendment on November 21, 2003. We will accept requests to speak until 4 p.m., mountain daylight time, on November 12, 2003.

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 OSM's Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining, Federal Building, 100 East B Street, Casper, Wyoming 82601-1918, Telephone: (307) 261-6550, e-mail: gpadgett@osmre.gov.

Neil Harrington, Chief, Industrial and Energy Minerals Bureau, Coal and Uranium Program, Department of Environmental Quality, Phoenix Building, 2209 Phoenix Avenue, P.O. Box 200902, Helena, Montana 59620-0902, Telephone: (406) 444-4973, e-mail: neharrington@state.mt.us.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Casper Field Office Director; telephone: (307) 261-6550; e-mail: 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

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 this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this 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 July 29, 2003, Montana sent us a proposed amendment to its program (SATS MT-024-FOR; Administrative Record No. MT-21-1) under SMCRA (30 U.S.C. 1201 *et seq.*). Montana sent the amendment to include 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 Montana Strip and Underground Mine Reclamation Act that Montana proposes to add and/or revise are as follows.

82-4-202, Policy—Findings

Making editorial changes to State policy and findings concerning the environment, mining and reclamation and adding new policy and findings statements.

82-4-203, Definitions

Adding or revising the terms "adjacent area," "approximate original contour," "cropland," "developed water resources," "ephemeral drainageway," "fish and wildlife habitat," "forestry," "grazing land," "higher or better uses," "hydrologic balance," "industrial or commercial," "intermittent stream," "land use," "material damage," "pastureland," "perennial stream," "reclamation," "recreation," "reference area," "residential," "restore or restoration," "surface owner," and "wildlife habitat enhancement feature"; and recodifying defined terms and making editorial changes in the wording of several terms.

82-4-221, Mining Permit Required

Decreasing the time during which the Department of Environmental Quality (DEQ) must approve or disapprove an application for a minor permit revision.

82-4-222, Permit Application

Adding specific requirements for a determination of probable hydrologic consequences, a water monitoring plan, a postmining topography map, and a description of the permit area's premining condition, and recodifying parts of the section and making editorial changes throughout it.

82-4-231, Submission of and Action on Reclamation Plan

Revising the requirement to minimize disturbances to the prevailing hydrologic balance and making editorial changes throughout the section.

82-4-232, Area Mining Required—Bond—Alternative Plan

Revising the highwall reduction, approximate original contour, and alternate postmining land use provisions; defining the term "landowner" in context of this section, adding provisions for timely reclamation, wildlife habitat enhancement features, and for replacing pre-existing facilities, and recodifying parts of the section and making editorial changes throughout it.

82-4-233, Planting of Vegetation Following Grading of Disturbed Area

Revising provisions for establishing a vegetative cover, for reestablished plant species, and for reestablished vegetation, and recodifying parts of the section and making editorial changes throughout it.

82-4-234, Commencement of Reclamation

Removing the prohibition against disturbing an area seeded as required by 82-4-233 without DEQ approval and making editorial changes to the section.

82-4-235, [Renamed "Determination of Successful Revegetation—Final Bond Release"]

Adding new provisions for revegetation success, including new success standards, and recodifying parts of the section and making editorial changes throughout it.

82-4-236, Vegetation as Property of Landowner

Making editorial changes.

82-4-239, Reclamation

Establishing jurisdictional venue for right-of-entry actions and making editorial changes.

82-4-250, Operating Permit Revocation—Permit Transfer

Deleting the expiration on this provision.

82-4-252, Mondamus

Making editorial changes. Montana also proposes to add new sections for: (1) Allowing permit and reclamation plan application revisions based on the proposed statutory changes; (2) codification instructions for making the provisions for revising permit applications part of the MSUMRA; (3) severability, to ensure that, if some of the new provisions are found to be invalid, other parts that are severable from them remain in effect; (4) a savings clause that keeps these statutory changes from affecting rights and duties that matured, penalties that were incurred, or proceedings begun before the effective date of these changes; (5) contingent voidness to void any of these statutory changes if the Secretary of the Interior disapproves them and for certifying such disapproval; and for making January 1, 2004, the effective date of these changes.

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: SATS No. MT-024-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 (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., mountain daylight time on November 12, 2003. 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

The Office of Management and Budget (OMB) exempted this rule from review 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 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 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we evaluated the potential effects of this rule on Federally-recognized Indian Tribes and have determined that this proposed rule does not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. The proposed rule solicits public input but does not make any decisions or determinations. The State of Montana, under a Memorandum of Understanding with the Secretary of the Interior (the validity of which was upheld by the U.S. District Court for the District of Columbia), does have the authority to apply the provisions of the Montana regulatory program to mining of some coal minerals held in trust for the Crow Tribe. OSM is in the process of consulting with the Crow Tribe on this proposed program amendment.

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 on counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect on a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied on 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 on the fact that the State submittal, which is the subject of this rule, is based on 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 on the fact that the State submittal, which is the subject of this rule, is based on 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: October 2, 2003.

James F. Fulton,

Acting Regional Director, Western Regional Coordinating Center.

[FR Doc. 03-27045 Filed 10-24-03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[Docket # OR-02-003b; FRL-7275-8]

Approval and Promulgation of Air Quality Implementation Plans; State of Oregon; Grants Pass PM-10 Nonattainment Area Redesignation to Attainment and Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On November 4, 2002, the State of Oregon submitted a PM-10 maintenance plan for Grants Pass to EPA for approval and concurrently requested that EPA redesignate the Grants Pass nonattainment area to attainment for the National Ambient Air Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter of less than ten micrometers (PM-10). In this action, EPA is proposing to approve the maintenance plan and to redesignate the Grants Pass PM-10 nonattainment area to attainment.

DATES: Comments on this proposed rule must be received in writing by November 26, 2003.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Steven K. Body, Office of Air Quality, (OAQ-107), EPA Region 10, 1200 Sixth Ave., Seattle, Washington 98101. Electronic comments should be sent either to r10aircomm@epa.gov or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in the Direct Final Rule, **SUPPLEMENTARY INFORMATION** section, Part VII, General Information.

Copies of the documents relevant to this action are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday at the following office: United States Environmental Protection Agency, Region 10, Office of Air Quality, 1200 Sixth Ave., Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT:

Steven K. Body, Office of Air Quality, (OAQ-107), EPA Region 10, 1200 Sixth Ave., Seattle, WA 98101, (206) 553-0782, or body.steve@epa.gov.

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's redesignation request and State Implementation Plan (SIP) revision, involving the maintenance plan, as a direct final rule without prior proposal because the Agency views the redesignation and SIP revision as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

For additional information see the direct final rule, of the same title, published in the rules section of this **Federal Register**.

Dated: October 2, 2003.

Ronald A. Kreizenbeck,

Acting Regional Administrator, Region 10.

[FR Doc. 03-26918 Filed 10-24-03; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 031017264-3264-01; I.D. 100103C]

RIN 0648-AR48

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Referendum Procedures for a Potential Gulf of Mexico Red Snapper Individual Fishing Quota Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to provide potential participants information about the schedule,

procedures, and eligibility requirements for participating in referendums to determine whether an individual fishing quota (IFQ) program for the Gulf of Mexico commercial red snapper fishery should be prepared and, if so, whether it subsequently should be submitted to the Secretary of Commerce (Secretary) for review. The intended effect of this proposed rule is to implement the referendums consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments must be received no later than 5 p.m., eastern time, on November 12, 2003.

ADDRESSES: Written comments on the proposed rule must be sent to Phil Steele, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727-570-5583. Comments will not be accepted if submitted via e-mail or Internet.

Copies of supporting documentation for this proposed rule, which includes a regulatory impact review (RIR) and a Regulatory Flexibility Act Analysis (RFAA), are available from NMFS at the address above.

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone: 727-570-5305, fax: 727-570-5583, e-mail: phil.steele@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery in the exclusive economic zone (EEZ) of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622.

Background

During the early to mid-1990s, the Council began development of an IFQ program for the commercial red snapper fishery in the Gulf of Mexico. Development of this program involved extensive interaction with the fishing industry, other stakeholders, and the public through numerous workshops, public hearings, and Council meetings. The program was approved by NMFS and scheduled for implementation in 1996. However, Congressional action in late 1995 prohibited implementation of any new IFQ programs in any U.S. fishery before October 2000. Subsequent Congressional actions incorporated this prohibition and related provisions into the 1996 amendments to the Magnuson-Stevens Act and ultimately extended the prohibition until October 1, 2002.