

DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement****30 CFR Part 926**

[SATS No. MT-045-FOR; Docket No. OSM-2025-0005; S1D1S SS08011000 SX064A000 256S180110; S2D2S SS08011000 SX064A000 25XS501520]

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 an amendment to the Montana regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Montana submitted this proposed amendment to OSM on its own initiative in response to a State law passed by the Montana Legislature—Senate Bill 365 (SB 365). The amendment to the Montana coal program regulations clarifies that, if a siltation structure's capacity is exceeded because of an extraordinary series of storms, an operator will not have violated the siltation structure construction requirements if the siltation structure was constructed consistent with the design capacity requirements in the applicable Administrative Rules of Montana (ARM) and the operator actively undertakes measures to restore pond capacity as soon as weather and ground conditions permit. SB 365 also includes contingencies that apply to the proposed amendment but are not codified into the Montana Code Annotated (MCA): a severability clause, a contingent voidness clause, and an effective date clause.

DATES: The effective date is August 14, 2026.

FOR FURTHER INFORMATION CONTACT: Attn: Jeffrey Fleischman, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Casper, Wyoming 82602, Telephone: (307) 261-6550, Email: jfleischman@osmre.gov.

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I. Background on the Montana Program

Section 503(a) of SMCRA 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 program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with SMCRA and consistent with the Federal implementing regulations. See 30 U.S.C. 1253(a)(1) and (7); 30 CFR 730.5 and 732.15(a). 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 the Montana program and program amendments at 30 CFR 926.15.

II. Submission of the Amendment

By letter dated May 6, 2025 (Administrative Record No. MT-045-01), Montana sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). We found Montana's proposed amendment to be administratively complete on May 6, 2025. Montana submitted the proposed amendment to us, on its own volition, after the Montana legislature passed SB 365 during the 2025 legislative session. SB 365 amended the Montana Strip and Underground Mine Reclamation Act (MSUMRA) as well as section 82-4-231(10)(k)(ii)(B) of the MCA.

First, Montana proposed to add language stating that siltation structures must be constructed with the design capacity specified in the ARM, which requires siltation structures to be constructed to hold the water inflow or runoff from anticipated precipitation events entering the pond, and, if applicable, must also hold the average inflow from the underground mine.

Second, Montana added language clarifying that operation of a siltation structure constructed consistent with the design capacity requirements in the ARM is compliant with the design capacity requirements even if the pond capacity is exceeded as the result of consecutive small storm events that cumulatively exceed the anticipated precipitation event, and the operator actively works to restore pond capacity as soon as weather and ground conditions permit.

Finally, SB 365 added three contingencies to the proposed changes

to section 82-4-231(10)(k)(ii)(B) that are not codified into the MCA but apply to the section amended by the legislation. These provisions cover severability, contingent voidness, and the effective date.

We announced receipt of the proposed amendment in the August 4, 2025, **Federal Register** (90 FR 36406). We received nine written comments on the proposed rule.

III. OSM's Findings

OSM reviewed Montana's submittal according to the requirements of SMCRA and the Federal regulations at 30 CFR 730.5, 732.15, and 732.17. As described below, we are approving Montana's submittal.

A. Montana Code Annotated (MCA) 82-4-231(10)(k)(ii)(B)

OSM finds Montana's proposed changes to MCA 82-4-231(10)(k)(ii)(B) to be in accordance with SMCRA and consistent with the Federal regulations and are thus approving them.

At MCA 82-4-231(10)(k)(ii)(A), Montana requires operations to conduct their mining "so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit are, but the contributions may not be in excess of requirements set by applicable state or federal law." And at current MCA 82-4-231(10)(k)(ii)(B), Montana requires siltation structures to be constructed pursuant to the "best technology currently available" standard of MCA 82-4-231(10)(k)(ii)(A), certified by a qualified registered engineer, and constructed as designed and approved in the reclamation plan.

Through this amendment, Montana proposed to add language to MCA 82-4-231(10)(k)(ii)(B) that references rules in the ARM and clarifies that pond capacity exceedances are not pond construction violations when the exceedance is caused by a multi-storm event and the structure was constructed consistent with the approved design capacity requirements.

First, the proposed new language referencing siltation structure requirements in the ARM is in accordance with SMCRA and consistent with the Federal regulations. Montana proposed to add language to its siltation structure requirements that states siltation structures must "be constructed with the design capacity specified in administrative rule to detain the water inflow or runoff entering the pond from an anticipated precipitation event plus the average inflow from the underground mine, if

applicable.” Montana’s administrative rules for sedimentation ponds and other treatment facilities are located at ARM 17.24.639. ARM 17.24.639(2), which contains pond construction rules, requires sedimentation ponds to “provide the required theoretical detention time adequate to meet effluent limitations . . . and for the water inflow or runoff entering the pond from a 10-year, 24-hour precipitation event (design event), plus the average inflow from the underground mine if applicable.”

By contrast, the Federal regulations at 30 CFR 816.46(c)(1)(iii)(C) and (d)(1) require any siltation structures, including sedimentation ponds, to be designed to hold or treat a 10-year, 24-hour precipitation event unless a lesser design event is approved by the regulatory authority based on terrain, climate, other site-specific conditions and on a demonstration by the operator that effluent limitations will be met.

Despite not giving the exact cite to its administrative rules, the proposed language Montana added to MCA 82–4–231(10)(k)(ii)(B) is a direct reference to its approved siltation structure construction rules in ARM 17.24.639(2). Montana is not adding a new requirement but instead reinforcing its administrative rules in its statute. Furthermore, the construction requirements that Montana referenced are substantially similar to its federal counterpart rule at 30 CFR 816.46(c)(1)(iii)(C). Thus, Montana’s proposed new language referencing its administrative rules for siltation structure construction requirements are in accordance with SMCRA and consistent with the Federal regulations.

Second, the proposed language clarifying that pond capacity exceedance from a multistorm event is not inherently a permit violation is in accordance with SMCRA and consistent with the Federal regulations. Montana also added language to MCA 82–4–231(10)(k)(ii)(B) that states that an operation will be considered compliant with the siltation structure construction requirements “even if the pond capacity is exceeded as a result of water inflow or runoff entering the pond from a multistorm event consisting of a series of small, consecutive storm events that cumulatively exceed the anticipated precipitation event and the operator actively undertakes measures to restore pond capacity as soon as weather or ground conditions permit.” In a letter sent to OSM dated September 3, 2025, Montana State Senator Barry Usher, the sponsor of SB 365 from which this amendment originates, stated that he added this language to “clarify that as

long as a permit holder constructed the facility to the standard required by DEQ, an exceedance of the capacity due to concurrent storm events is not inherently a violation of the permit.” Senator Usher also stated that he considers this clarification to be necessary because requiring operations to design ponds for large multi-storm events would result in very large and expensive structures that are impractical from a cost and footprint standpoint, and that a larger detention pond would lead to more water from the mine being held back, resulting in an unnecessary impact on downstream users’ water quantity. (Administrative record no. MT–045–14).

By contrast, the Federal counterpart regulations at 30 CFR 816.46 do not make this clarification, but the Federal rules would also not automatically find a *construction* permit violation where pond capacity is exceeded as the result of a series of small, consecutive storm events. The Federal regulations at 30 CFR 816.46(c)(1)(iii)(C) require that the pond be *designed, constructed, and maintained* to hold or treat a 10-year, 24-hour precipitation event, unless a lesser design event is approved based on site-specific conditions and the operator demonstrates that effluent limitations will be met.

Montana’s clarification that an operation is still in compliance if a set of smaller, consecutive storm events cumulatively cause an exceedance in pond capacity is limited only to the pond construction requirements. MCA 82–4–231(10)(k)(ii)(B) only contains pond construction requirements, and Montana’s clarification language states “[o]peration of a siltation structure with this design capacity requirement is compliant with *this part* even if the pond capacity is exceeded . . . from a multistorm event . . .” (Emphasis added). If the multistorm event occurred as described in MCA 82–4–231(10)(k)(ii)(B) and another requirement was violated, like EPA/state effluent limitations, then a permit violation would still occur under those rules. This interpretation is corroborated by the sponsor of SB 365, Senator Usher, who stated in his September 3, 2025, letter to OSM that “[this proposed language] doesn’t mean that a mine is not responsible for the quality of the water flowing off the mine site. Those requirements remain in place.” (Administrative record no. MT–045–14).

The proposed changes are also in accordance with the “best technology currently available” requirements in the Federal and State regulations. The regulations at 30 CFR 701.5 define “best technology currently available” to

include the “design of sedimentation ponds in accordance with 30 CFR parts 816 and 817.” And as explained above, Montana’s sedimentation pond regulations are in line with the requirements of 30 CFR 816.46(c)(1)(iii)(C) that the pond must be “designed, constructed, and maintained to hold or treat a 10-year, 24-hour precipitation event.” Montana’s proposed changes are also in line with its own rules for “best technology currently available.” ARM 17.24.301(20) requires that, to achieve the best technology currently available, an operator’s design and construction of sedimentations structures will “in no event result in contributions of suspended solids in excess of requirements set by applicable state or federal law.” As discussed above, an operator is still responsible for any violation of water quality standards resulting from an exceedance of its sedimentation pond capacity. Through this amendment, Montana is only clarifying that sedimentation pond *construction* requirements are not violated if an exceedance occurs in the multi-storm scenario.

Moreover, the proposed changes would not change Montana’s existing rules about siltation pond maintenance requirements, including if a multi-storm scenario takes place. The Montana administrative rules for design capacity referenced in MCA 82–3–231(k)(ii)(B) are found at ARM 17.24.639(2). Sediment maintenance rules are located at ARM 17.24.639(6) and require sediment removal when the pond reaches 60% of its design sediment storage volume. Under the proposed changes, MCA 82–3–231(k)(ii)(B) clarifies that if a pond constructed consistent with the design capacity requirements outlined in the ARM is exceeded as the result of consecutive small storm events that cumulatively exceed the anticipated capacity, no violation would be issued related to design capacity requirements. However, nothing in the proposed revisions changes pond maintenance requirements and an operator would still be subject to enforcement if maintenance requirements are not met or if an exceedance occurred due to a failure to maintain a pond, even for multi-storm events. In other words, the rules governing sedimentation maintenance are separate and remain enforceable regardless of precipitation amounts.

Thus, because Montana does not exempt any operators from applicable design, construction, or maintenance requirements or water quality standards, Montana’s proposed language clarifying

that pond capacity exceedance from a multistorm event is not inherently a permit violation is in accordance with SMCRA and consistent with the Federal regulations.

B. Sections 2, 3, and 4 of SB 365

SB 365 also added contingencies that are not codified into the MCA but that affect the amended parts of the MCA.

1. Section 2. Severability

Section 2 of SB 365 states that if any part of SB 365 is found invalid, all valid parts that are severable from the invalid part will remain in effect. While this is legislative language and not part of Montana's surface mining program, we note that the Federal regulation at 30 CFR 732.17(h)(7) requires the Director to consider all relevant information, using the criteria set forth in 30 CFR 732.15, to approve or disapprove the amendment. The Director may approve all or parts of an amendment that are in accordance with SMCRA and consistent with the Federal regulations.

2. Section 3. Contingent Voidness

Section 3 of SB 365 states that, if the Secretary of the Interior disapproves of any provision of SB 365 under 30 CFR part 732, then that portion of the bill is void. Furthermore, MDEQ is required to notify the code commissioner of a disapproval within 15 days of the effective date of disapproval. Notwithstanding SB 365, the Federal regulation gives the Director the authority to approve or disapprove all or part of a proposed amendment to a State program. 30 CFR 732.17(h)(7). Any program amendment or part of a program amendment disapproved by the Director would be void and would not become part of Montana's approved program.

3. Section 4: Effective Date

Section 4 of SB 365 states that its provisions are effective on passage and approval of the bill. Section 4 of SB 365 does not specify who is providing the "approval" that triggers the effective date. SMCRA and the Federal regulations state that no change to law or programs can take effect for purposes of a State program until the amendment is approved by the Director. 30 CFR 732.17(g). The Federal regulations further specify that all decisions approving or not approving a State program amendment must be published in the **Federal Register** and will be effective upon publication unless the notice specifies otherwise. 30 CFR 732.17(h)(12).

By looking at the text of SB 365 preceding Section 4, OSM interprets the

term "approval" to mean approval by the Director. Section 3 speaks to the need for Secretarial approval but provides that if a provision is disapproved, that portion of SB 365 is severed from the approved portions of the bill. In Section 3, SB 365 states that any provision of SB 365 that the Secretary of the Interior "disapprov[es]" will be void. Taken together, it is appropriate to read "approval" as used in Section 4 of SB 365 as referring to action taken consistent with the regulatory review and approval process by the Secretary of the Interior, as delegated to the OSM Director. This interpretation is also consistent with 30 CFR 732.17(g), which refers to approval by the Director of OSM and states that "No such change to [state] laws or regulations shall take effect for purposes of a State program until approved as an amendment." Thus, OSM interprets Section 4 in a way that is both supported by the surrounding statutory text of SB 365 and leads to consistency with SMCRA.

Notwithstanding OSM's interpretation, should the drafters or implementers of SB 365 interpret Section 4 as becoming effective upon approval by an entity other than the Director, that interpretation would conflict with SMCRA and the Federal regulations. No change to state laws or programs can be implemented or become effective prior to approval by the Director. 30 CFR 732.17(g). To ensure consistency with the Administrative Procedure Act, the effective date of the OSM Director's approval of SB 365 is August 14, 2026.

IV. Summary and Disposition of Comments

OSM asked for public comments on the amendment during a public comment period that ended on September 3, 2025. OSM received nine written comments during the comment period. (Administrative Record No. MT-045-08 through MT-045-16). To view comments in full, visit <https://www.regulations.gov>.

Public Comments

Comment: One commenter stated that OSM should deny the amendment because it fails to protect workers, citizens, and the environment as required by SMCRA.

OSM Response: OSM disagrees. Montana's requirements for siltation structure construction mirror requirements in SMCRA and the Federal regulations. Through this amendment, Montana is not changing siltation structure requirements but adding further specificity and clarification to

the enforcement of its State program and is, thus, in accordance with SMCRA and consistent with the Federal regulations. Please see our full discussion of this topic in Section III(A).

Comment: One commenter stated that OSM should deny this amendment because of the State's history and failures in regulating coal mining.

OSM Response: OSM finds this comment to be outside the scope of this rulemaking. Please note that since OSM's approval of the Montana program on April 1, 1980, Montana has had primacy over its coal program with OSM acting in an oversight role. Since the Montana program's initial approval, OSM has continually found the Montana program to be in accordance with SMCRA and the Federal regulations. You can view OSM's Annual Evaluation Reports of the Montana program, which OSM has continually found to be compliant with SMCRA and the Federal regulations, at <https://odocs.osmre.gov/>. You can also 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), as well as later actions concerning the Montana program and program amendments at 30 CFR 926.15.

Comment: One commenter stated that OSM should deny this amendment because it allows coal operators to escape liability in the event their siltation structures fail, thus, shifting the burden of pollution cleanup on to downstream landowners and water rights holders. They opined that the overflow from the multi-storm precipitation events Montana described in the proposed amendment would likely contain toxins and heavy metals that would enter streams and groundwater, affecting neighbors far beyond the permit's boundary, and the operators should be held responsible to mitigate these impacts.

OSM Response: OSM disagrees. Montana's updated rules are limited to clarifying that an operator is in compliance with the siltation structure construction requirements, even if a pond's capacity is exceeded because of multiple storms. The amendment also requires an operator to undertake measures to restore pond capacity as soon as weather and ground conditions permit. An operator could still be in violation of other rules or requirements—such as water quality standards or structure maintenance requirements—if the exceedance was the result of a failure to maintain the structure according to the maintenance

requirements or if the exceedance resulted in a violation of water quality standards. Moreover, if the overflow was such that it created issues outside of the permit area such as the commenter described, an operator would still be responsible for off-site impacts. Please see our full discussion of this topic in Section III(A).

Comment: One commenter stated that they support this amendment because it reaffirms Montana's longstanding requirements that detention ponds and structures be built and maintained to rigorous design standards, but it also clarifies compliance requirements in extraordinary weather events. They stated the rule change would ensure that an operator who complied with structure requirements, but whose structure capacity was exceeded by events beyond human control and engineering standards, is not unfairly punished.

OSM Response: OSM agrees with this commenter. As discussed in Section III(A), Montana has siltation structure requirements that mirror the federal regulations at 30 CFR 816.46(c)(1)(iii)(C) and (d)(1), which require siltation structures to be designed to contain runoff from a 10-year, 24-hour precipitation event. The changes in MCA 82–4–231(10)(k)(ii)(B) clarify that exceedances due to consecutive storm events that cumulatively exceed the anticipated capacity of siltation structures would not be considered a siltation structure construction violation. Please see our full discussion of this topic in Section III(A).

Comment: Multiple commenters stated that OSM should approve the amendment because it reaffirms the national priority of bolstering domestic energy and mineral production. Some commenters also stated that this amendment aligns with the following Executive Orders: *Unleashing American Energy* (Jan. 20, 2025), *Immediate Measures to Increase American Mineral Production* (Mar. 20, 2025), and *Reinvigorating America's Beautiful Clean Coal Industry* (Apr. 8, 2025).

OSM Response: While OSM agrees that Montana's proposed amendment aligns with the Executive Orders identified by commenters, the decision to approve the amendment was based on OSM's finding that the proposed amendment is in accordance with SMCRA and consistent with the Federal regulations, including 30 CFR 732.17.

Comment: One commenter stated that OSM should approve the amendment because it aligns with the purpose of SMCRA to strike a balance between protection of the environment and the Nation's need for coal as an essential

source of energy, and it is consistent with SMCRA's directive that State programs meet Federal requirements while also reflecting local requirements, environments, and agricultural conditions. Furthermore, they stated that the amendment is in line with SMCRA's requirements that siltation structures must "minimize disturbances to the prevailing hydrologic balance at the mine-site" and "*to the extent possible, using the best technology currently available,*" prevent additional contributions of suspended solids to streamflow or runoff outside the permit area . . . 30 U.S.C. 1265(b)(10)(B)(i) (emphasis added.). They stated that the specified multi-storm scenario provided by Montana does not lessen, change, or omit any of SMCRA's requirements, and instead clarifies what the phrase "to the extent possible" means in light of Montana's local environment and needs. And that the clarification maintains SMCRA obligations while also adding a new protection measure by requiring the operator to take measures to restore pond capacity as soon as weather and ground conditions permit.

OSM Response: OSM agrees that Montana's amendment is in line with SMCRA's "best technology currently available" rule but disagrees that Montana's amendment is a clarification of the phrase "to the extent possible," as it relates to Montana's local requirements, environments, and agricultural conditions. Montana's amendment is instead clarifying that construction requirements are not violated if an exceedance occurs as a result of the multi-storm scenario.

As discussed in Section III(A), Montana's regulations and rules for sedimentation ponds are consistent with the Federal regulations located within Parts 816 and 817 and thus considered "best technology currently available." And at ARM 17.24.301(20), Montana defines "best technology currently available" to mean equipment, devices, systems, methods, or techniques that will "prevent, to the extent possible, additional contributions of suspended solids to stream or runoff outside their permit area, *but in no event will result in contributions of suspended solids in excess of requirements set by applicable state or federal laws . . .*" (emphasis added). So, a sedimentation pond design will be considered "best technology currently available" so long as it meets Montana's design and construction requirements and in no event results in contributions of suspended solids that violate Montana and Federal water quality standards.

As for Montana's ability to tailor its definition of "best technology currently

available," to its local needs, the Federal regulations at 30 CFR 701.5 does give the regulatory authority the discretion to determine the "best technology currently available," but this is decided on a case-by-case basis and it must be consistent with SMCRA, the Federal regulations, and the applicable state law. Montana echoes this rule in its own regulations at ARM 17.24.301(20). Please see our full discussion of this topic in Section III(A).

Comment: One commenter stated that we should approve the amendment because, like OSM's standards and directives, Montana's proposed language recognizes the realistic extent of regulation in severe weather events. The commenter opined that in the Federal regulations, compliance is measured by construction and maintenance to design standards and by use of the best technology currently available, not by the structure's performance in every conceivable weather scenario.

OSM Response: OSM agrees, in part. The siltation structure requirements in the Federal regulations at 30 CFR 816.46(c)(1)(iii)(C) and (d)(1) cover construction requirements for siltation structures. Similarly, MCA 82–4–231(10)(k)(ii)(B) only contains pond construction requirements. The Federal and State regulations also recognize that "best technology currently available" can be achieved by meeting the siltation structure construction requirements, which in both the Federal and Montana regulations is built to contain runoff from a 24-hour, 100-year event. Montana's amendment limits its multi-storm scenario to construction requirements, clarifying that the construction and design requirements are not violated when the multi-storm scenario occurs. But other requirements, like maintenance requirements, water quality standards, the prohibition against offsite impacts, which are contained in other sections of the Montana coal program, still apply during the multi-storm scenario. So, while Montana's clarification that, during the multi-storm scenario, an exceedance of pond capacity does not necessarily violate the pond's construction requirements, the siltation pond must still perform in line with other requirements. Please see our full discussion of this topic in Section III(A).

Federal Agency Comments

On September 10, 2025, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies that have an actual or potential interest in the Montana program

(Administrative Record No. MT–045–04).

On November 26, 2025, we received a comment from the Mining Safety and Health Administration (MSHA), which stated, in reference to Montana's requirements for 10-year, 24-hour precipitation design events, that MSHA has no additional design requirements for siltation structures whose pond size is under the size criteria set by MSHA's regulations at 30 CFR 77.216(a), and it poses no hazard to miners. (Administrative Record No. MT–045–17).

OSM Response: OSM thanks MSHA for their comments.

EPA Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the CWA (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (43 U.S.C. 7401 *et seq.*). This amendment does not relate to air or water quality standards and thus does not require a written concurrence from the EPA. Even so, on September 10, 2025, under 30 CFR 732.17(h)(11)(i), we sent a letter requesting comments from the EPA on the amendment (Administrative Record No. MT–045–04). The EPA did not provide any comments for this amendment.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On September 10, 2025, we requested comments on the amendment (Administrative Record No. MT–045–04). Montana SHPO and the ACHP did not provide a comment.

V. OSM's Decision

Based on the above findings, we are approving Montana's proposed amendment (MT–045–FOR) sent to us on May 6, 2025 (Administrative Record No. MT–045–01).

To implement this decision, we are amending the Federal regulations, at 30 CFR part 926, that codify decisions concerning the Montana program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires that a State

program must have rules and regulations that are in accordance with SMCRA and consistent with Federal regulations.

VI. Procedural Determinations

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not effect a taking of private property or otherwise have taking implications that would result in public property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Orders 12866—Regulatory Planning and Review and 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of State program amendments is exempted from OMB review under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by Section 3 of Executive Order 12988. The Department determined that this **Federal Register** document meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency review proposed regulations to eliminate drafting errors and ambiguity; that the agency write its regulations to minimize litigation; and that the agency's regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because Section 3 focuses on the quality of Federal regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive Order did not extend to the language of the State regulatory program amendment that Montana drafted.

Executive Order 13132—Federalism

This rule has potential Federalism implications, as defined under section 1(a) of Executive Order 13132. Executive Order 13132 directs agencies to “grant the States the maximum

administrative discretion possible” with respect to Federal statutes and regulations administered by the States. Montana, through its approved regulatory program, implements and administers SMCRA and its implementing regulations at the state level. This rule approves an amendment to the Montana program submitted and drafted by the State and, thus, is consistent with the direction to provide maximum administrative discretion to States.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria of Executive Order 13175 and have determined that, with the exception of the Crow Tribe's “Ceded Strip,” which through a memorandum of understanding the Department of the Interior and Montana agreed to coordinate the administration of applicable surface mining requirements, no Indian lands as defined under SMCRA, are implicated by this rule. But this State program amendment may have substantial direct effects on 20 Federally-recognized Tribes because of the potential implications for the Tribe or Tribal members, Tribal treaty rights, reserved rights, trust resources, or ancestral lands. Therefore, on August 4, 2025, we sent invitation letters to consult to these 20 Tribes (Administrative Record No. MT–045–07). We did not receive any comments or requests for Tribal Consultation.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking 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 a significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

National Environmental Policy Act

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(A), a State program amendment is a not major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (43 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

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 corresponding 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 corresponding Federal regulations.

Congressional Review 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 an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than \$100 million per year. The rule does not have a significant or

unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface Mining, Underground Mining.

Marcelo Calle,

Acting Regional Director, Unified Regions, 5, 7–11.

For the reasons set out in the preamble, 30 CFR part 926 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. Amend § 926.15 by adding an entry for “May 6, 2025” at the end of the table to read as follows:

§ 926.15 Approval of Montana regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * *	* * *	* * *
	May 6, 2025	7/15/2026 Mont. Code. Ann. 82–4–231(10)(k)(ii)(B) <i>Submission of and action on reclamation plan—Siltation structure construction requirements—Approved.</i>

[FR Doc. 2026–14244 Filed 7–14–26; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[SATS No. MT–047–FOR; Docket No. OSM–2025–0007; S1D1S SS08011000 SX064A000 256S180110; S2D2S SS08011000 SX064A000 25XS501520]

Montana Regulatory Program

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

ACTION: Final rule; approving.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement

(OSM), are approving an amendment to the Montana regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Montana submitted this proposed amendment to OSM on its own initiative in response to a State law passed by the Montana Legislature—House Bill 616 (HB 616). The amendment to the Montana coal program regulations proposed that predictive modeling, along with monitoring data, may be included in a permittee’s bond release application to prove compliance with their approved reclamation plans. Furthermore, Montana proposed that it may retain a portion of a bond for areas that are contributing suspended solids. HB 616 also included contingencies that apply to the proposed amendment but are not codified into the Montana Code

Annotated (MCA): a severability clause, a contingent voidness clause, and an effective date clause.

DATES: The effective date is August 14, 2026.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

- I. Background on the Montana Program
- II. Submission of the Amendment
- III. OSM’s Findings

A. Montana Code Annotated (MCA) 82–4–232

- 1. MCA 82–4–232(6)(a)(i)
- 2. MCA 82–4–232(6)(a)(ii)
- 3. MCA 82–4–232(6)(b)(iv)
- 4. MCA 82–4–232(6)(h)
- 5. MCA 82–4–232(6)(i)