and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on June 27, 2001.

Issued in Renton, Washington, on June 4, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–14533 Filed 6–11–01; 8:45 am]

BILLING CODE 4910–13–U

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: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving 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 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; subsidence; a definition of operator for uranium mining; and other editorial revisions. Montana revised its program to be consistent with SMCRA, provide additional safeguards, clarify ambiguities, and improve operational efficiency.

EFFECTIVE DATE: June 12, 2001.

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

SUPPLEMENTARY INFORMATION:

I. Background on the Montana Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. 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 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. Submission of the Proposed Amendment

By letters dated July 20 and August 17, 2000, Montana sent us an 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 present changes made at its own initiative by the 1997 State legislature. The full text of this program amendment is available for you to read at the locations listed above under **ADDRESSES**.

In this amendment, Montana unnecessarily included revisions from the 1995 State legislature which OSM approved in the January 22, 1999, **Federal Register** (64FR3604; Administrative Record No. 14–13.) Those revisions are not rediscussed in this rule notice.

The provisions of the Montana Code Annotated (MCA) that Montana proposed to revise, or add, are: 82–4–203(1) and (21)(d), MCA (Definitions); 82–4–232(1), (7) and (8), MCA (Area mining required-bond-alternative plan); 82–4–233(1) and (4), MCA (Planting of vegetation following grading of disturbed area); 82–4–243, MCA (Subsidence); 82–4–253(1), (2) and (3), MCA (Suit for damage to water supply); and 82–4–254(1), (2), (3), (4) and (9), MCA (Violation-Penalty-Waiver).

We announced receipt of the proposed amendment in the September 25, 2000, **Federal Register** (65 FR 57583). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (Administrative Record No. MT–17–05). We did not hold a public hearing or meeting because no one requested one. The public comment period ended on October 25, 2000.

During our review of the amendment, we identified one concern about lack of a definition of ''permittee'' in the Montana program. We notified Montana of this concern by letter dated December 4, 2000 (Administrative Record No. MT–17–06). Montana responded in a letter dated December 18, 2000 (Administrative Record No. MT–17–07), that it would not submit a revision to the amendment at this time. In the letter, Montana stated that it would write a definition of ''permittee'' for the State program and submit it to OSM.

III. Director's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment.

1. Minor Revisions to Montana's Statutes

Montana proposed minor wording, editorial, punctuation, grammatical, and recodification changes to the following previously-approved statutes. The corresponding Federal regulations or SMCRA provisions are listed in parentheses.

82–4–203, MCA, subsection (1), (30 CFR 842.11(e)), Definitions;
82–4–232, MCA, subsections (1), (7) and (8), (SMCRA Sections 507(b)(6) and 515(b)(3)), Area mining require—bond—alternative plan;
82–4–253, MCA, subsections (1), (2) and (3), (SMCRA Section 717(a)), Suit for damage to water supply; and
82–4–254, MCA, (1), (2), (3) and (9), (SMCRA Sec. 518), Violation—penalty—waiver.

Because these changes are minor, we find that they will not make Montana's statutes less stringent than SMCRA.

2. MCA 82–4–203(21)(d), Definition of ''Operator''

Montana proposed to expand the definition of ''operator'' to include a person engaged in ''uranium mining'' using in situ methods. Montana currently applies its coal mining regulations in the Administrative Rules of Montana (ARM) 26.4, Subchapter 9, to the uranium industry. However, there is no definition of what constitutes a uranium mining ''operator'' in ARM. By adding this definition, Montana is adding clarity and consistency to the State program.

There is no Federal equivalent statute or rule to the definition of a uranium mining operator, as OSM's regulations apply to coal mining exclusively. Therefore, OSM finds that Montana's revised definition of ''operator'' is not inconsistent with the requirements of SMCRA, the Federal regulations, and Montana's currently approved program.

The Director approves MCA 82–4–203(21)(d).

3. MCA 82–4–233(1) and (4), Planting of Vegetation Following Grading of Disturbed Area

At MCA 82–4–233(1) and (4), Montana proposed to allow certain lands (those mined, disturbed, or redisturbed after May 2, 1978, and seeded prior to January 1, 1984, with a seed mix that was approved by the department, lands on which the reclaimed vegetation meets Montana's requirements and applicable State and Federal seed and vegetation laws and rules) to have introduced species composing a major or dominant component of the reclaimed vegetation, as introduced species were, at that time, considered to be desirable and necessary to achieve the postmining land use.

Montana's currently approved program in the Administrative Rules of Montana (ARM) at 26.4.728 and MCA 82–4–233 and 82–4–235 contain revegetation requirements which are no less effective than the Federal requirements at 30 CFR 816.111 and no less stringent than the Federal requirements at SMCRA Sec. 515(b)(19). Concerning the establishment of native species on reclaimed lands, Montana's approved program at ARM 26.4.728 is more stringent than the Federal requirements as Montana requires that the revegetated area must be composed of ''at least 51% native species.'' Montana is requesting the proposed exemption at MCA 82–4–233(1) and (4) from its approved program to cover lands disturbed by mining after May 2, 1978 and seeded prior to January 1, 1984, when seed mixes recommended by the State of Montana contained highly competitive introduced species which took over less-competitive native species in the seed mix recommended at that time.

In support of the statutory revision to provide an exception to ARM 26.4.728, Montana states that:

> Much of the land disturbed by mining after May 2, 1978 and seeded prior to January 1, 1984 was reclaimed and seeded with an approved seed mix containing competitive introduced species. The competitive nature of several introduced species combined with the reduced success of native species resulted in the vegetation of many reclaimed fields being dominated by introduced species. With the advancement of reclamation techniques and the revision of seed mixtures, better reclamation and revegetation with predominantly native species have resulted.
>
> In order to appropriately address the preponderance of introduced species in many of the earlier reclaimed stands, the Department requested the Montana Legislature to amend The Montana Strip and Underground Mine Reclamation Act to include the use of introduced species to achieve the postmine lands use, which under certain conditions, may be necessary and can provide superior wildlife habitat and/or livestock grazing. This provision addresses those fields that were disturbed after May 12, 1978 and seeded prior to January 1, 1984. The proposed change only addresses the use of introduced species, all other vegetation standard remain unchanged. Additionally, Montana requires that all fields seeded after January 1, 1984 must also meet the standard of at least 51% native species at the time of bond release.
>
> While a reduction in the number of native species may be realized in selected special use pastures, vegetative production and cover standards will be achieved prior to bond release. These standards plus the structural diversity apparent in these fields will ensure the approved postmine land use (livestock grazing and wildlife habitat) is appropriately supported prior to final bond release. A minor revision may be necessary to approve those changes.

SMCRA allows the use of introduced species in the revegetation process where desirable and necessary to achieve the approved postmining land use plan. On lands disturbed by mining after May 2, 1978 and seeded prior to January 1, 1984, Montana's approval of the seed mixes indicates that Montana determined that the introduced species were desirable and necessary to achieve the postmining land use, and allowed the inclusion of these species in the approved seed mix during the early 1980s. Although the introduced species used during the specified time period were unexpectedly competitive, as compared with the recommended native species in the same seed mix, vegetation resulting from the seed mix still provided wildlife habitat and/or livestock grazing.

Neither SMCRA nor the Federal regulations specify what percentage of vegetative cover for reclaimed grazing land or fish and wildlife should be comprised of native species, but rather SMCRA allows the use of introduced species where desirable and necessary to achieve the postmining land use. Montana is documenting its decision prior to January 1984 (and changed at that time) that the use of introduced species would provide the postmining land uses of wildlife habitat and livestock grazing, as provided in SMCRA. Therefore, the Director finds the Montana statute revisions at MCA 82–4–233(1) and (4) to be no less stringent than SMCRA Sec. 515(19)(b) and no less effective than 30 CFR 816.111 and is approving the revision.

4. MCA 82–4–243, Subsidence

In response to a Part 732 letter dated June 5, 1996, concerning the Energy Policy Act of 1992, Montana proposed a new statute at MCA 82–4–243 which provides that the permittee of an underground coal mining operation shall promptly repair or compensate for subsidence-caused material damage to any noncommercial building or occupied residential dwelling and related structures. Repair of damage shall include rehabilitation, restoration, or replacement. Compensation must be provided to the owner of the damaged property in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium-prepaid insurance policy. The statute also requires the prompt replacement of drinking, domestic, or residential water supply from a well or spring, pre-existing to the permit application, which have been contaminated, diminished, or interrupted by underground coal mining operations. Nothing in the statute may prohibit or interrupt underground coal mining operations. In addition, the Montana statute provides that no remedy granted under another statue provision or law would be abrogated, impaired, or diminished by MCA 82–4–243.

The Federal equivalent at SMCRA Sec. 720(a) provides that underground coal mining operations shall promptly repair, or compensate for, material damage resulting from subsidence caused to any occupied residential dwelling and structures related thereto, or non-commercial building due to underground coal mining operations. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged occupied residential dwelling and structures related thereto, or non-commercial building. Compensation shall be provided to the owner of the damaged occupied residential dwelling and structures related thereto or non-commercial building and shall be in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium-prepaid insurance policy. The statute also requires prompt replacement of any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a surface coal mining and reclamation permit affected by contamination, diminution or interruption resulting from underground coal mining

operations. Nothing in the statute shall be construed to prohibit or interrupt underground coal mining operations. The Federal statute went into effect on October 24, 1992.

The language of the Montana statute is very similar to the Federal counterpart and, therefore, is no less stringent than SMCRA. OSM notes that whereas the Federal statute refers to ''underground coal mining operations,'' the Montana statute refers to ''the permittee of an underground coal mining operation.'' Montana does not have a definition of ''permittee'' in the approved program. By letter dated December 18, 2000, Montana stated that it would write a definition of ''permittee'' for the State program and submit it to OSM. Existing MCA 82–4–221 clarifies that an operator may not engage in strip or underground mining without first having obtained from the department a permit. MCA 82–4–221, as well as other statutes in Montana's currently approved program, use the term ''permittee'' for the holder of the required permit. OSM believes that Montana's use of the term ''permittee'' and its meaning in proposed MCA 82–4–243 is clear, even though the program lacks a definition of ''permittee'' at this time. Therefore, OSM finds that Montana's proposed MCA 82–4–243 is no less stringent than Section 720(a) of SMCRA and approves the new statute.

5. MCA 82–4–254(4), Violation—Penalty—Waiver

The only revision proposed by Montana to this subsection concerns the deletion of ''commissioner'' and the substitution of ''director of environmental quality.'' This revision reflects the State of Montana reorganization in 1995 which, among other things, revised the environmental and natural resource functions of the State government. Montana made related revisions relating to the State reorganization and title changes in the January 22, 1999, **Federal Register** notice at Finding No. 2 (Administrative Record No. MT–14–11; 64 FR 3604), but this subsection was overlooked. Therefore, with reference to Finding No. 2 in the aforementioned January 22, 1999, **Federal Register** notice, the Director approves this revision to MCA 82–4–254(4) as it implements the same State reorganization.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record No. MT–17–02), but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and Section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Montana program (Administrative Record No. MT–17–02).

MSHA responded by letter dated October 5, 2000, that the proposed amendment was not in conflict with MSHA regulations (Administrative Record No. MT–17–04).

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i) and (ii), we are required to get a written agreement from EPA for those provisions of the program amendment that relate to air or water quality standards issued 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.*).

None of the revisions that Montana proposed to make in this amendment pertain to air or water quality standards. Under 30 CFR 732.17(h)(11)(i), OSM requested comments on the amendment from EPA (Administrative Record No. MT–17–02). EPA did not respond to our request.

State Historic 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 12, 2000, we requested comments on Montana's amendment (Administrative Record No. MT–17–02), but neither responded to our request.

V. Director's Decision

Based on the above findings, we approve the amendment sent to us by Montana. We approve, as discussed in: Finding No. 1, MCA 82–4–203(1), concerning the definition of ''abandoned;'' MCA 82–4–232(1), (7) and (8), concerning area mining required—bond—alternate plan; MCA 82–4–253(1), (2) and (3), concerning suit for damage to water supply; and MCA 82–4–254(1), (2), (3) and (9), concerning violation—penalty—waiver; Finding No. 2, MCA 82–4–203(21)(d), concerning the definition of ''operator'' for uranium mining; Finding No. 3, MCA 82–4–233(1) and (4), concerning the use of introduced species on lands mined, disturbed, or redisturbed after May 2, 1978, and reseeded prior to January 1, 1984; Finding No. 4, MCA 82–4–243, concerning subsidence; and Finding No. 5, MCA 82–4–254(4), concerning violation—penalty—waiver.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 926, which codify decisions concerning the Montana program. We are making this final rule effective immediately to expedite the State program amendment process and to encourage States to make their programs conform with the Federal standards. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

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

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

Executive Order 12988—Civil Justice Reform

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.

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 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.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: a. does not have an annual effect on the economy of $100 million; b. will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and c. does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on any local, State, or Tribal governments or private entities.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 10, 2001.

Brent Wahlquist,

Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR 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. 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
*	*	* * * * *
July 20 and August 17, 2000	6/12/01	MCA 82–4–203(1) and (21)(d), 82–4–232(1), (7) and (8), 82–4–233(1) and 4, 82–4–243, 82–4–253(1), (2) and (3) and 82–4–254(1), (2), (3), (4) and (9).

[FR Doc. 01–14712 Filed 6–11–01; 8:45 am]
BILLING CODE 4310–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AH85

Subsistence Management Regulations for Public Lands in Alaska

AGENCY: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Interim rule.

SUMMARY: This rule amends the operating regulations of the Federal Subsistence Management Program in Alaska by expanding the authority that the Board may delegate to agency field officials and clarifying the procedures for enacting emergency or temporary restrictions, closures, or openings.

DATES: This rule is effective May 1, 2001. Comments on this rule must be received by August 13, 2001.

ADDRESSES: Submit written comments to Office of Subsistence Management, 3601 C Street, Suite 1030, Anchorage, AK 99503. Submit electronic comments to Bill_Knauer@fws.gov. Please submit as either WordPerfect or MS Word files, avoiding the use of any special characters and any form of encryption.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Thomas H. Boyd, (907) 786–3888. For questions specific to National Forest System lands, contact Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, (907) 271–2540.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands, unless the State of Alaska