

chronological order by “Date of final publication” to read as follows:

§ 917.15 Approval of Kentucky regulatory program amendments.
* * * * *

Original amendment submission date	Date of final publication	Citation/description
September 14, 2009	March 9, 2011	405 KAR 16:140, Disposal of coal mine waste. 405 KAR 18:140, Disposal of coal mine waste.

§ 917.16 [Amended]

■ 3. Section 917.16 is amended by removing and reserving paragraph (d)(5).

[FR Doc. 2011-5386 Filed 3-8-11; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 918

[SATS No. LA-023-FOR; Docket No. OSM-2010-0005]

Louisiana Regulatory Program/ Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.
ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Louisiana regulatory program and abandoned mine land reclamation plan under the Surface Mining Control and Reclamation Act of 1977. Louisiana proposed revisions to its regulations regarding: Definitions; lands eligible for re-mining; general provisions for review of permit application information and entry of information into Applicant Violator System (AVS); review of applicant, operator, and ownership and control information; review of permit history; review of compliance history; permit eligibility determination; unanticipated events or conditions at re-mining sites; eligibility for provisionally issued permits; written findings for permit application approval; initial review and finding requirements for improvidently issued permits; suspension or rescission requirements for improvidently issued permits; who may challenge ownership or control listings and findings; how to challenge an ownership or control listing or finding; burden of proof for ownership or control challenges; written

agency decision on challenges to ownership or control listings or findings; post-permit issuance requirements for regulatory authorities and other actions based on ownership, control, and violation information; post-permit issuance information requirements for permittees; transfer, assignment, or sale of permit rights; certifying and updating existing permit application information; providing applicant and operator information; providing permit history information; providing violation information; backfilling and grading: previously mined areas; cessation orders; and contractor eligibility. Louisiana revised its regulatory program to be no less effective than the corresponding Federal regulations, and its abandoned mine land reclamation plan to be consistent with the Federal regulations.

DATES: *Effective Date:* March 9, 2011.

FOR FURTHER INFORMATION CONTACT: Sherry Wilson, Director, Birmingham Field Office. Telephone: (205) 290-7282. E-mail: swilson@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Louisiana Program
- II. Submission of the Amendment
- III. OSM’s Findings
- IV. Summary and Disposition of Comments
- V. OSM’s Decision
- VI. Procedural Determinations

I. Background on the Louisiana 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 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 Louisiana program effective October 10, 1980. You can find background information on the

Louisiana program, including the Secretary’s findings, the disposition of comments, and the conditions of approval of the Louisiana program in the October 10, 1980, **Federal Register** (45 FR 67340). You can also find later actions concerning the Louisiana program and program amendments at 30 CFR 918.10, 918.15 and 918.16.

The Abandoned Mine Land Reclamation Program was established by Title IV of the Act in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Indian Tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary of the Interior for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines. On the basis of these criteria, the Secretary of the Interior approved the Louisiana plan on November 10, 1986. You can find background information on the Louisiana plan, including the Secretary’s findings, the disposition of comments, and the approval of the plan in the November 10, 1986, **Federal Register** (51 FR 40795). You can find later actions concerning the Louisiana plan and amendments to the plan at 30 CFR 918.25.

II. Submission of the Amendment

By letter dated March 4, 2010 (Administrative Record No. LA-369), Louisiana sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Louisiana submitted its proposed amendment in response to a September 30, 2009, letter (Administrative Record No. LA-368) that OSM sent to Louisiana in accordance with 30 CFR 732.17(c). Louisiana proposed revisions to the Louisiana Surface Mining Regulations found in the Louisiana Administrative Code, Title 43, Part XV (LAC)

concerning definitions; lands eligible for remining; general provisions for review of permit application information and entry of information into AVS; review of applicant, operator, and ownership and control information; review of permit history; review of compliance history; permit eligibility determination; unanticipated events or conditions at remining sites; eligibility for provisionally issued permits; written findings for permit application approval; initial review and finding requirements for improvidently issued permits; suspension or rescission requirements for improvidently issued permits; who may challenge ownership or control listings and findings; how to challenge an ownership or control listing or finding; burden of proof for ownership or control challenges; written agency decision on challenges to ownership or control listings or findings; post-permit issuance requirements for regulatory authorities and other actions based on ownership, control, and violation information; post-permit issuance information requirements for permittees; transfer, assignment, or sale of permit rights; certifying and updating existing permit application information; providing applicant and operator information; providing permit history information; providing violation information; backfilling and grading; previously mined areas; cessation orders; and contractor eligibility.

We announced receipt of the proposed amendment in the September 30, 2010, **Federal Register** (75 FR 60373). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on November 1, 2010. We did not receive any public comments.

III. OSM's Findings

We are approving the amendment as described below. The following are the findings we made concerning the amendments under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, and 30 CFR 884.14 and 884.15.

A. Section 105. Definitions

Louisiana added definitions for Applicant/Violator System or AVS; Knowing or knowingly; Control or controller; Own, owner, or ownership; and Willful or willfully.

We find that Louisiana's new definitions are substantively the same as the counterpart Federal regulations at 30

CFR 701.5. The full text of the new definitions can be found in the administrative record or online at Regulations.gov.

Louisiana deleted the definitions for Knowingly; Owned or Controlled and Owns or Controls; Willfully; and Willful Violation.

We find that these deletions will not make Louisiana's regulations less effective than the Federal counterparts because these definitions were incorporated into other definitions to more closely follow the Federal counterpart. The full text of the deleted definitions can be found in the administrative record or online at Regulations.gov.

Louisiana amended the definition Transfer, Assignment or Sale of Rights from.

We find that Louisiana's new definition is substantively the same as the counterpart Federal regulation at 30 CFR 701.5.

Louisiana added a new definition For Violation, the full text of the new definition can be found in the administrative record or online at Regulations.gov.

We find that Louisiana's new definition is substantively the same as the counterpart Federal regulation at 30 CFR 701.5 with the exception of not including a State counterpart to paragraph (C) related to an alternative bonding system which is not needed since Louisiana does not use an alternative bonding system. We find that this change, including the exception, will not make Louisiana's regulations less effective than the Federal counterpart.

Based on the above findings, we are approving Louisiana's proposed regulations at Section 105, Definitions.

B. Section 2913. Lands Eligible for Remining

Louisiana added a new section with permitting requirements for lands eligible for remining.

We find that Louisiana's Section 2913 is substantively the same as the counterpart Federal regulation at 30 CFR 785.25. Therefore, we are approving it. The full text of the new section can be found in the administrative record or online at Regulations.gov.

C. Section 3113. Review of Permit Applications

Louisiana added a new paragraph C pertaining to entry of information into AVS.

We find that Louisiana's Section 3113, paragraph C is substantively the same as the counterpart Federal

regulation at 30 CFR 773.8. Therefore, we are approving it. The full text of the new paragraph can be found in the administrative record or online at Regulations.gov.

Louisiana added a new paragraph D for the review of applicant, operator, and ownership and control information.

We find that Louisiana's Section 3113, paragraph D is substantively the same as the counterpart Federal regulation at 30 CFR 773.9. Therefore, we are approving it. The full text of the new paragraph can be found in the administrative record or online at Regulations.gov.

Louisiana added a new paragraph E to include provisions for the review of permit history.

We find that Louisiana's Section 3113, paragraph E is substantively the same as the counterpart Federal regulation at 30 CFR 773.10. Therefore, we are approving it. The full text of the new paragraph can be found in the administrative record or online at Regulations.gov.

Louisiana added a new paragraph F to include provisions for the review of compliance history.

We find that Louisiana's Section 3113, paragraph F is substantively the same as the counterpart Federal regulation at 30 CFR 773.11. Therefore, we are approving it. The full text of the new paragraph can be found in the administrative record or online at Regulations.gov.

Louisiana added a new paragraph G pertaining to permit eligibility determinations.

We find that Louisiana's Section 3113, paragraph G is substantively the same as the counterpart Federal regulation at 30 CFR 773.12. Therefore, we are approving it. The full text of the new paragraph can be found in the administrative record or online at Regulations.gov.

Louisiana added a new paragraph H to include provisions for unanticipated events or conditions at remining sites.

We find that Louisiana's Section 3113, paragraph H is substantively the same as the counterpart Federal regulation at 30 CFR 773.13. Therefore, we are approving it. The full text of the new paragraph can be found in the administrative record or online at Regulations.gov.

Louisiana deleted paragraphs C, D, E, and F related to reviews of violations, permit issuance related to correction or appeal of violations, and final compliance reviews.

We find that the deletion of these four paragraphs (C., D., E., and F.) will not make Louisiana's regulations less effective than the Federal counterpart

because these were incorporated into new paragraphs to more closely follow the Federal counterpart as listed above. Therefore, we are approving it. The full text of the deleted paragraphs can be found in the administrative record or online at Regulations.gov.

D. Section 3114. Eligibility for Provisionally Issued Permits

Louisiana added new paragraphs A, B, and C to include requirements for the issuance of a provisional permit when a notice of violation has been issued and the abatement period has yet to expire, or a violation is unabated or uncorrected beyond the abatement or correction period.

We find that Louisiana's Section 3114 is substantively the same as the counterpart Federal regulation at 30 CFR 773.14. Therefore, we are approving it. The full text of the new paragraphs can be found in the administrative record or online at Regulations.gov.

E. Section 3115. Criteria for Permit Approval or Denial

Louisiana added paragraphs A. 17, 18, and 19 for proposed reming operations, permit application requirements, and eligibility requirements.

We find that Louisiana's Section 3115 is no less effective than the counterpart Federal regulation at 30 CFR 773.15. Therefore, we are approving it. The full text of the new paragraphs can be found in the administrative record or online at Regulations.gov.

F. Section 3127. Improvidently Issued Permits: General Procedures

Louisiana revised this section by deleting the existing paragraphs A, B, and C and replacing them with new paragraphs A, B, C, D, and E for improvidently issued permits.

We find that the deletion of the three paragraphs (A, B, and C) will not make Louisiana's regulations less effective than the Federal counterpart because these were incorporated into new paragraphs (A, B, C, D, and E) to more closely follow the Federal counterparts. We find that Louisiana's new Section 3127 is substantively the same as the counterpart Federal regulation at 30 CFR 773.21. Therefore, we are approving it. The full text of the revised section can be found in the administrative record or online at Regulations.gov.

G. Section 3129. Improvidently Issued Permits: Suspension or Rescission Procedures

Louisiana revised this section by adding "Suspension or" to the title and by replacing paragraph A, revising subparagraphs of A via several editorial changes, and by adding a new section A. 3 to closely follow 30 CFR 773.23.

We find that Louisiana's Section 3129 closely follows the counterpart Federal regulation at 30 CFR 773.23 and is no less effective. Therefore, we are approving it. The full text of the revised section can be found in the administrative record or online at Regulations.gov.

H. Section 3131. Challenges to Ownership or Control Listings and Findings

Louisiana added this new section to establish the requirements of who can challenge a listing or finding of ownership or control.

We find that Louisiana's Section 3131 is substantively the same as the counterpart Federal regulation at 30 CFR 773.25. Therefore, we are approving it. The full text of the new section can be found in the administrative record or online at Regulations.gov.

I. Section 3133. Challenging an Ownership or Control Listing or Finding

Louisiana added this new section to provide provisions for the applicant to challenge an ownership or control listing or finding.

We find that Louisiana's Section 3133 is substantively the same as the counterpart Federal regulation at 30 CFR 773.26. Therefore, we are approving it. The full text of the new section can be found in the administrative record or online at Regulations.gov.

J. Section 3135. Burden of Proof for Ownership or Control Challenges

Louisiana added this new section to include requirements for meeting the burden of proof by the applicant.

We find that Louisiana's Section 3135 is substantively the same as the counterpart Federal regulation at 30 CFR 773.27. Therefore, we are approving it. The full text of the new section can be found in the administrative record or online at Regulations.gov.

K. Section 3137. Written Decision on Challenges to Ownership or Control Listings or Findings

Louisiana added this new section to include requirements for the regulatory authority to review and investigate the

evidence and explanatory materials submitted by the applicant when challenging ownership or control listings or findings.

We find that Louisiana's Section 3137 is substantively the same as the counterpart Federal regulation at 30 CFR 773.28. Therefore, we are approving it. The full text of the new section can be found in the administrative record or online at Regulations.gov.

L. Chapter 35. Permit Reviews and Renewals; Transfers, Sale and Assignment of Rights Granted Under Permits

Louisiana amended the wording of this title to read as follows:

Chapter 35. Permit Reviews and Renewals; Transfer, Sale and Assignment of Rights Granted Under Permits; Post-Permit Issuance Requirements; and Other Actions Based on Ownership, Control and Violation Information

We find that Louisiana's title change is substantively the same as the Federal counterpart title for part 774. Therefore, we are approving it.

M. Section 3521. Post Permit Issuance Requirements for Regulatory Authorities and Other Actions Based on Ownership, Control, and Violation Information

Louisiana added this new section to include requirements for when the regulatory authority has to enter information into AVS.

We find that Louisiana's Section 3521 is substantively the same as the counterpart Federal regulation at 30 CFR 774.11. Therefore, we are approving it. The full text of the new section can be found in the administrative record or online at Regulations.gov.

N. Section 3523. Post-Permit Issuance Information Requirements for Permittees

Louisiana added this new section to include requirements for the permittee in relation to cessation orders.

We find that Louisiana's Section 3523 is substantively the same as the counterpart Federal regulation at 30 CFR 774.12. Therefore, we are approving it. The full text of the new section can be found in the administrative record or online at Regulations.gov.

O. Section 3517. Transfer, Assignment or Sale of Permit Rights: Obtaining Approval

Louisiana amended paragraph C.1. by changing a reference to Section 3113.G and 3115.

We find that Louisiana's revision to Section 3517 does not make this section less effective than the counterpart Federal regulations at § 774.17. Therefore, we are approving it. The full text of the revised paragraph can be found in the administrative record or online at Regulations.gov.

P. Section 2304. Certifying and Updating Existing Permit Application Information

Louisiana added this new section to include provisions for updating information contained in AVS.

We find that Louisiana's Section 2304 is substantively the same as the counterpart Federal regulation at 30 CFR 778.9. Therefore, we are approving it. The full text of the new section can be found in the administrative record or online at Regulations.gov.

Q. Section 2305. Identification of Interests

Louisiana amended paragraphs A.1, 2, 3, and 4 to closely follow 30 CFR 778.11 and 778.12. We find that Louisiana's revision to Section 2305 does not make this section less effective than the counterpart Federal regulations at §§ 778.11 and 778.12. Therefore, we are approving it. The text of the revised paragraphs can be found in the administrative record or online at Regulations.gov.

R. Section 2307. Compliance Information

Louisiana amended paragraphs A.1 and 3 to closely follow 30 CFR 778.14. We find that Louisiana's revision to Section 2307 does not make this section less effective than the counterpart Federal regulations at § 778.14. Therefore, we are approving it. The full text of the revised paragraphs can be found in the administrative record or online at Regulations.gov.

S. Section 5414. Backfilling and Grading: Previously Mined Areas

Louisiana added this new section to include requirements for backfilling and grading on remaining operations.

We find that Louisiana's Section 5414 is substantively the same as the counterpart Federal regulation at 30 CFR 816.106. Therefore, we are approving it. The full text of the new section can be found in the administrative record or online at Regulations.gov.

T. Section 6501. Cessation Orders

Louisiana amended paragraph G to closely follow 30 CFR 843.11. We find that Louisiana's Section 6501 is substantively the same as the

counterpart Federal regulation at 30 CFR 843.11. Therefore, we are approving it. The full text of the revised paragraph can be found in the administrative record or online at Regulations.gov.

U. Section 8509. Contractor Eligibility

Louisiana added this new section to include requirements for contractor eligibility to successfully bid for an AML contract.

We find that Louisiana's Section 8509 is substantively the same as the counterpart Federal regulation at 30 CFR 874.16. Therefore, we are approving it. The full text of the new section can be found in the administrative record or online at Regulations.gov.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, but did not receive any.

Federal Agency Comments

On April 6, 2010, 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 Louisiana program (Administrative Record No. LA-369.01). We did not receive any comments.

Environmental Protection Agency (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 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 Louisiana proposed to make in this amendment pertains to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on April 6, 2010, under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. LA-369.01). The EPA did not respond to our request.

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 April 6, 2010, we requested comments on Louisiana's amendment (Administrative Record No.

LA-369.01), but neither responded to our request.

V. OSM's Decision

Based on the above findings, we approve the amendment Louisiana sent us on March 4, 2010.

To implement this decision, we are amending the Federal regulations at 30 CFR part 918, which codify decisions concerning the Louisiana program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. 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. Making this rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. 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

This rule is exempted from review by the Office of Management and Budget (OMB) 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 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 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, 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 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the 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. This determination is based on the fact that the Louisiana program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Louisiana program has no effect on Federally-recognized Indian tribes.

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 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. 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

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 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 did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 918

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 29, 2010.

Ervin J. Barchenger,
Regional Director, Mid-Continent Region.

For the reasons set out in the preamble, 30 CFR part 918 is amended as set forth below:

PART 918—LOUISIANA

■ 1. The authority citation for part 918 continues to read as follows:

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

■ 2. Section 918.15 is amended in the table by adding a new entry in chronological order by “Date of final publication” to read as follows:

§ 918.15 Approval of Louisiana regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
March 4, 2010 ..	March 9, 2011 ..	Sections 105; 2913; 3113 C., D., E., F., G., H.; 3114; 3115 A. 17, 18, 19; 3127; 3129; 3131; 3133; 3135; 3137; Chapter 35 title; 3521; 3523; 3517 C.1.; 2304; 2305 A.1., A.2.c., d., e., A.3., A.4.; 2307 A.1., A.3.; 5414; 6501 G.

■ 3. Section 918.25 is amended in the table by adding a new entry in

chronological order by “Date of final publication” to read as follows:

§ 918.25 Approval of Louisiana abandoned mine land reclamation plan amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
March 4, 2010	March 9, 2011	Section 8509.

[FR Doc. 2011-5382 Filed 3-8-11; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[SATS No. MT-031-FOR; Administrative Record No. OSM-2010-0010]

Montana Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving an amendment to the Montana regulatory program (the “Montana program”) under the Surface Mining Control and Reclamation Act of 1977 (“SMCRA” or “the Act”). Montana proposed revisions to the Administrative Rules of Montana (ARM) at Chapter 17.24.1109 (BONDING: LETTERS OF CREDIT). Montana is revising its program to incorporate the additional flexibility afforded by the revised Federal regulations and SMCRA, as amended, and to improve operational efficiency.

DATES: *Effective Date:* March 9, 2011.

FOR FURTHER INFORMATION CONTACT: Jeffery Fleischman, Field Office Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 150 East B Street, Room 1018, Casper, Wyoming 82604-1018, 307-261-6552, jfleischman@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Montana Program
- II. Submission of the Proposed Amendment
- III. Office of Surface Mining Reclamation and Enforcement’s (OSM’s) Findings
- IV. Summary and Disposition of Comments
- V. OSM’s Decision
- VI. 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 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 letter dated July 14, 2010, Montana sent us an amendment to its program (Administrative Record Docket ID: OSM-2010-0010) under SMCRA (30 U.S.C. 1201 *et seq.*). Montana sent the amendment to include the changes made at its own initiative. The amendment changes a condition for irrevocable letters of credit issued by banks as collateral in order to correct an error in the definition.

Specifically, in ARM 17.24.1109(1)(e)(iii), Montana (1) substitutes “capital stock” for “shareholder equity” to tailor the definition of “total stockholder’s equity” to that used by the banking industry; and (2) deletes the criterion to evaluate the financial strength of a bank issuing a letter of credit set forth in ARM 17.24.1109(1)(f). The deletion of requirements in subsection (1)(f) recognizes that credit rating agencies change over time and that not all credit rating agencies use a rating scale that includes a ‘B+’ rating as required by the regulation. In addition, credit rating agencies rate national banks and not state chartered banks. The deletion of subsection (1)(f) now allows qualifying state chartered banks to issue letters of credit as collateral for reclamation bonds. With the deletion of subsection (f), (g) through (j)(iii) will remain the same, but are renumbered (f) through (i)(iii).

We announced receipt of the proposed amendment in the October 5,

2010, **Federal Register** (Vol. 75, No. 192 FR 61366). 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. OSM-2010-0010-0004).

We did not receive any comments. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on November 4, 2010.

III. OSM’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 as described below.

A. Revisions to Montana’s Rules With No Corresponding Federal Regulation

The following are proposed revisions to the Montana regulations that have no corresponding Federal regulation.

Administrative Rules of Montana (ARM) 17.24.1109, BONDING: LETTERS OF CREDIT.

The substitution of the term “capital stock” for “shareholders equity” brings subsection (1)(e)(iii) in line with the standard definition used by the banking and financial institutions.

The deletion of the requirements in subsection (1)(f) recognizes that credit rating agencies change over time and that not all credit rating agencies use a rating scale that includes a B+ rating as required by the regulation. In addition, credit rating agencies rate national banks and not state chartered banks. The deletion of subsection (1)(f) now allows qualifying state chartered banks to issue letters of credit as collateral for reclamation bonds.

We find that Montana’s revision of ARM 17.24.1109 BONDING: LETTERS OF CREDIT adds specificity beyond that contained in the Federal regulations and is no less effective. Accordingly, we are approving Montana’s revision.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record Docket ID: OSM-2010-0010), but did not receive any.