

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
May 7, 2002	August 6, 2003	ARM 17.24.301 (recodified); 17.24.301(13), (34), (39), (46), (47), (64), (71), (73), (76), (79), (95), (103), (110), (111), (133); 17.24.302(6); 17.24.303(15)(a)(ii); 17.24.304(5); 17.24.305(2)(b); 17.24.306(1), (3); 17.24.313(6); 17.24.315(1)(b); 17.24.321(1)(intro), (a), (2)-(4); 17.24.324(2), (3); 17.24.327(2); 17.24.401(1), (5)(b)(i); 17.24.403(2)(a); 17.24.405(1), (8); 17.24.413(4); 17.24.415(1); 17.24.416(1)(d), (2); 17.24.501(1), (3), (4)-(6); 17.24.501A deleted; 17.24.503(1); 17.24.505(2); 17.24.507(4); 17.24.510(1), (2); 17.24.514 deleted; 17.24.518(1); 17.24.519A deleted; 17.24.520(1), (2), (3 recodified); 17.24.522(1); 17.24.601(1)-(11); 17.24.603(1)-(5); 17.24.604 deleted; 17.24.605(1)-(3); 17.24.606 [moved to 17.24.601(7)]; 17.24.607(1)-(3); 17.24.623(2)(b)(iii); 17.24.625(1), (2); 17.24.632(1); 17.24.633(3)-(5); 17.24.634(1)(intro), (a), (2), (3); 17.24.639(1)(c)-(27); 17.24.640(1); 17.24.642(1)(f), (2), (3), (6); 17.24.645(5 intro), (6); 17.24.646(6); 17.24.647(1); 17.24.652(1); 17.24.702(1), (2), (6); 17.24.711(1), (6)(b); 17.24.716(1), (2), (5); 17.24.718(2); 17.24.724(3)(a); 17.24.725(1); 17.24.726(2); 17.24.728 (intro); 17.24.733(3), recodified (3)-(5); 17.24.762(1); 17.24.815(2)(c)-(e), (f)(i), (h); 17.24.821(1)(intro), (1)(g); 17.24.823(2); 17.24.825(1), (3); 17.24.826(1), (2) [replaces 17.24.1103]; 17.24.901(1)(c)(i)-(iii); 17.24.903(1)(a), (c), (d); 17.24.911(1)-(3), (4)-(6) recodified, (7)(intro), (8)-(10); 17.24.924(15)-(20); 17.24.925(2); 17.24.927(3); 17.24.1001(1)(a), (2)(b)-(o), (4); 17.24.1002(1), (2)(j)-(m), (3); 17.24.1003(1 recodified), (2)-(4); 17.24.1005(3)(c intro); 17.24.1006(1), (3)(intro); 17.24.1010 intro; 17.24.1014(1)(b), (2)(d), (4); 17.24.1017(2)(c), (3)(d); 17.24.1018(3)-(9); 17.24.1103 deleted; 17.24.1104(2), recodify (3)-(5); 17.24.1108(1); 17.24.1111(4), recodify (5)-(6); 17.24.1112(1)(h); 17.24.1116(8); 17.24.1116A deleted; 17.24.1132(1)(a)(iv); 17.24.1143(1); 17.24.1221(1); 17.24.1222(2); 17.24.1223(5) (intro), (6)(b); 17.24.1224(1)(b); 17.24.1225(1)-(3); 17.24.1226(1), (2); 17.24.1228(1); 17.24.1261(1), (2), (4)(b), (c), (5); 17.24.1262(1 as recodified). MCA 82-4-205 recodification, (1), (2); 82-4-206 title, (1), (2); 82-4-231(8)(c), (d), (f); 82-4-241(1)-(3); 82-4-254(3), (4).

■ 3. Section 926.16 is amended by removing and reserving paragraph (e)(9) and adding paragraph (m) to read as follows:

§ 926.16 Required program amendments.  
\* \* \* \* \*

(m) By October 6, 2003, Montana shall revise ARM 17.24.911, or otherwise modify its program, to require the prompt replacement of any drinking, domestic or residential water supply that is contaminated, diminished, or interrupted by underground mining activities, regardless of the occurrence of subsidence or whether subsidence has caused material damage or reduced the value or use of surface lands, to be no less effective than 30 CFR 817.41(j) in meeting the requirements of SMCRA 720(a)(2).

[FR Doc. 03-19944 Filed 8-5-03; 8:45 am]

BILLING CODE 4310-05-P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 4

RIN 1024-AC69

Operating Under the Influence of Alcohol or Drugs

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rule revises the National Park Service (NPS) regulation governing motor vehicle operation under the influence of alcohol. The revision is in response to a Presidential directive issued to all Federal agencies to promulgate regulations adopting a 0.08 blood alcohol concentration (BAC) as the legal limit for a per se impaired driving offense. This rule will assist in preventing tragic and unnecessary alcohol-related deaths and injuries on our Nation's roads.

DATES: Effective date: September 5, 2003.

FOR FURTHER INFORMATION CONTACT: Bernard C. Fagan, National Park Service, 1849 C Street, NW., Mailstop 7252, Washington, DC 20240. Telephone: (202) 208-7456. Email: Chick\_Fagan@nps.gov.

SUPPLEMENTARY INFORMATION:

Background

The NPS administers 388 areas throughout the country "to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." The National Park Service Organic Act, 16 U.S.C. 1. Although the nearly 300 million annual visitors to the national park system use a variety of access methods, the vast majority rely on motor vehicles and roadways to reach park

areas and to circulate within them. Consequently, the NPS has major responsibilities and program involvement in the areas of road construction and maintenance, traffic safety and traffic law enforcement.

There are approximately 8,000 miles of NPS-administered roads open to the public within the national park system. These 8,000 miles compare in magnitude to the State of Arizona's road system, except that they are scattered throughout the United States and its territories. There is great variety in the nature and extent of park roads. They range from very short lengths of unpaved secondary roadways, to well-developed road systems complete with spur roads, parking areas and overlooks, to parkways running for hundreds of miles through several States, to parkways used primarily as commuter routes in the Washington, DC area. In addition, many park areas contain State and/or county highways and roads over which the NPS may exercise varying degrees of jurisdiction.

On April 2, 1987, the NPS promulgated a final rule (36 CFR 4.23) concerning operating a motor vehicle under the influence of alcohol (52 FR 10683). That rule prohibits the operation or control of a motor vehicle if the alcohol concentration in the operator's blood or breath is 0.10 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath. The regulation provides, however, that if State law governing operation of a motor vehicle while under the influence of alcohol establishes more restrictive limits of alcohol concentration in the operator's blood or breath, those limits supersede the limits specified in this paragraph. The regulation is implemented primarily through roadside signing, text in brochures, and incidental public contact.

On March 3, 1998, President Clinton directed the Secretary of Transportation to work with Congress, other Federal agencies, the States, and others to develop a plan to promote the adoption of 0.08 BAC as the legal limit for a per se impaired driving offense. Specifically, he further directed that the plan consider setting a 0.08 BAC standard on all Federal property, including Department of Defense installations and the national parks. The directive also called for strong enforcement of, and publicity regarding, the 0.08 BAC standard. The benefits of the 0.08 standard in lives saved and injuries prevented have been documented extensively.

On January 31, 2003, the NPS published a proposed rule in the **Federal Register** (68 FR 4975), stating

that it proposed to revise its regulation to reduce the BAC standard from 0.10 grams of alcohol per 100 milliliters of blood or 210 liters of breath, to 0.08 grams.

#### Discussion of Comments

The NPS received two comments in response to the proposed rule, both of which support adoption of the lower 0.08 BAC standard.

The first commenter stated that he supported the 0.08 BAC standard, and also urged its adoption by the NPS with regard to boating and water use activities. That subject is dealt with in part 3 of 36 CFR, specifically 36 CFR 3.6(b). This rule deals only with part 4. The suggestion, however, will be taken into consideration in any future revision of part 3.

The second commenter also supported the lower BAC standard, but noted that the language of the proposed revision (as contained in the proposed rule) would also add a superfluous reference to breath. Specifically, the language of the proposed revision would have added "breath is" to the first sentence of 36 CFR 4.23(a)(2), just after "100 milliliters of blood or" and just before "0.08 grams or more of alcohol per 210 liters of breath." The NPS agrees that the extra wording is unnecessary, and that the only change needed in the language of the existing 36 CFR 4.23(a)(2) is to substitute "0.08" for "0.10". The second commenter also stated that authorities in the State of California have had difficulty treating violations of the NPS regulation as prior offenses under California's driving under the influence (DUI) statutes. The reasons cited by the commenter, however, do not relate to the BAC standard, but to other factors such as, for example, the California courts' strict interpretation of the State's DUI laws.

After considering the comments, and in light of their unanimous support of the lower 0.08 BAC standard, the NPS is adopting the rule as proposed, with the editing change discussed in the paragraph above.

#### Compliance With Other Laws

##### *Regulatory Planning and Review (Executive Order 12866)*

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Actions taken under this rule will not interfere with other agencies or local government plans, policies, or controls. This is an agency specific rule.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule will have no effect on entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. No grants or other forms of monetary supplements are involved.

(4) This rule does not raise novel legal or policy issues. The lower legal blood alcohol concentration level is prevalent throughout the United States and has been adopted by most other Federal agencies and States.

##### *Regulatory Flexibility Act*

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Although the regulation has significant implications for public safety, it does not have monetary implications. There are no businesses that depend on the public's ability to operate a motor vehicle while intoxicated. The rule will likely provide non-monetary benefits to the NPS and other law enforcement agencies through decreased accidents and injuries.

##### *Small Business Regulatory Enforcement Fairness Act (SBREFA)*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(1) Does not have an annual effect on the economy of \$100 million or more.

(2) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(3) 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.

##### *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.

*Takings (Executive Order 12630)*

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. No taking of personal property will occur as a result of this rule.

*Federalism (Executive Order 13132)*

This rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment pursuant to Executive Order 13132. This rule only affects the use of roads on NPS administered lands. It does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

*Civil Justice Reform (Executive Order 12988)*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

*Paperwork Reduction Act*

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required. An OMB form 83-I is not required.

*National Environmental Policy Act*

The National Park Service has analyzed this rule in accordance with the criteria of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370d) and the Department of the Interior Manual (516 DM 1.1-7.7). The regulation has been found to be covered by an applicable categorical exclusion (516 DM 6, Appendix 7.4 A.10), and no exceptions to categorical exclusions (516 DM 2, Appendix 2) apply to the regulation. The National Park Service has documented this finding in accord with the agency's procedures (Director's Order #12: Conservation Planning, Environmental Impact Analysis, and Decision-making, and the accompanying Handbook). As a result, the National Park Service is not legally required to prepare, and has not prepared, either an environmental assessment (EA) or an environmental impact statement (EIS).

**Government-to-Government Relationship With Tribes**

In accordance with Executive Order 13175 "Consultation and Coordination with Indian Tribal Governments" (65 FR

67249), the President's memorandum of April 29, 1994, "Government to Government Relations with Native American Tribal Governments" (59 FR 22951), and 512 DM 2, we have evaluated potential effects on federally recognized Indian tribes and determined that there are no potential effects.

**List of Subjects in 36 CFR Part 4**

National parks, Traffic regulations.

■ Accordingly, the NPS amends 36 CFR part 4 as follows:

**PART 4—VEHICLES AND TRAFFIC SAFETY**

■ 1. The authority citation for part 4 continues to read as follows:

**Authority:** 16 U.S.C. 1, 3, 9a, 462(k).

■ 2. Section 4.23(a)(2) is revised to read as follows:

**§ 4.23 Operating under the influence of alcohol or drugs.**

(a) \* \* \*

(2) The alcohol concentration in the operator's blood or breath is 0.08 grams or more of alcohol per 100 milliliters of blood or 0.08 grams or more of alcohol per 210 liters of breath. Provided however, that if State law that applies to operating a motor vehicle while under the influence of alcohol establishes more restrictive limits of alcohol concentration in the operator's blood or breath, those limits supersede the limits specified in this paragraph.

\* \* \* \* \*

Dated: July 11, 2003.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 03-19965 Filed 8-5-03; 8:45 am]

**BILLING CODE 4312-52-P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

**[NC-200317; FRL-7524-4]**

**Approval and Promulgation of Air Quality Implementation Plans; Forsyth County, North Carolina Update to Materials Incorporated by Reference**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; notice of administrative change.

**SUMMARY:** EPA is revising the format of 40 CFR part 52 for materials submitted by North Carolina that are incorporated by reference (IBR) into the Forsyth County portion of the North Carolina

state implementation plan (SIP). The regulations affected by this update have been previously submitted by the Local agency through the State agency and approved by EPA. This update affects the SIP materials that are available for public inspection at the Office of the Federal Register (OFR), Office of Air and Radiation Docket and Information Center, and the Regional Office.

**EFFECTIVE DATE:** This action is effective August 6, 2003.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303; Office of Air and Radiation Docket and Information Center, Room B-108, 1301 Constitution Avenue, (Mail Code 6102T) NW., Washington, DC 20460, and Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosymar De La Torre Colon at the above Region 4 address or at (404) 562-8965. Email: [delatorre.rosymar@epa.gov](mailto:delatorre.rosymar@epa.gov).

**SUPPLEMENTARY INFORMATION:** The SIP is a living document which the State can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997, (62 FR 27968) EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and OFR. The description of the revised SIP document, IBR procedures and "Identification of plan" format are discussed in further detail in the May 22, 1997, **Federal Register** document. On October 22, 2002, EPA published a document in the **Federal Register** (67 FR 64999) beginning the table for Forsyth County, North Carolina IBR material. In this document EPA is doing the update to the material being IBRed.

EPA has determined that today's rule falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause