

List of Subjects in 30 CFR Part 906

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 16, 2003.

James E. Fulton,

Acting Regional Director, Western Regional Coordinating Center.

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DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement****30 CFR Part 934**

[SATS ND-044-FOR, Amendment No. XXXIII]

North Dakota Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of a proposed amendment to the North Dakota regulatory program (hereinafter, the "North Dakota program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). North Dakota proposes revisions to and additions of rules pertaining to the definition of "valid existing rights," the process for determining whether or not a mine operator has valid existing rights, lands prohibited from mining, changes in the format of permit applications, general requirements for mining plans, land descriptions for partial bond release requests, filing requirements for copies of reports required by the State Health Department, sediment control measures, and removal of sedimentation ponds.

North Dakota intends to revise its program to be consistent with the corresponding Federal regulations and improve operational efficiency.

DATES: We will accept written comments on this amendment until 4 p.m., mountain standard time (m.s.t.) July 3, 2003. If requested, we will hold a public hearing on the amendment on June 30, 2003. We will accept requests to speak until 4 p.m., m.s.t. on June 18, 2003.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Guy Padgett at the address listed below.

You may review copies of the North Dakota program, this amendment, a listing of any scheduled public hearings, and all written comments received in

response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting the Office of Surface Mining Reclamation and Enforcement (OSM) Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East "B" Street, Federal Building, Room 2128, Casper, Wyoming 82601-1918, 307/261-6550, GPadgett@osmre.gov.

James R. Deutsch, Director, Reclamation Division, Public Service Commission, State of North Dakota, 600 E. Boulevard Avenue, Dept. 408, Bismarck, North Dakota 58505-0480, jrd@oracle.psc.state.nd.us.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: 307/261-6550. Internet: GPadgett@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background of the North Dakota Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

I. Background of the North Dakota 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 North Dakota program on December 15, 1980. You can find background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval of the North Dakota program in the December 15, 1980, **Federal Register** (45 FR 82214). You can also find later actions concerning North Dakota's program and program amendments at 30 CFR 934.12, 934.13, 934.15, and 934.30.

II. Description of the Proposed Amendment

By letter dated February 10, 2003, North Dakota sent us a proposed amendment to its program (Amendment number XXXIII, administrative record No. ND-HH-01 under SMCRA (30 U.S.C. 1201 *et seq.*)). North Dakota sent

the amendment in response to an April 2, 2001, letter (administrative record No. ND-HH-02) that we sent to it in accordance with 30 CFR 732.17(c), and to include the changes made at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

The provisions of the North Dakota Administrative Code (NDAC) that North Dakota proposes to revise are: (1) NDAC 69-05.2-01-02(120), Definition of Valid Existing Rights (VER); (2) NDAC 69-05.2-04-01, Processing Requests for Valid Existing Rights and Exceptions from Areas Prohibited from Mining; (3) NDAC 69-05.2-05-01, Copies and format of permit applications; (4) NDAC 69-05.2-09-01, General requirements for mining plans; (5) NDAC 69-05.2-12-12, Bond release requirements; (6) NDAC 69-05.2-16-04, Sediment Control Measures under the general water management requirements; (7) NDAC 69-05.2-16-05, Water discharge reports; and (8) NDAC 69-05.2-16-09, Removal of water management structures.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the North Dakota program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Casper Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: SATS No. ND-044-FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Casper Field Office at 307/261-6555.