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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 934

[ND-036-FOR, Amendment No. XXIV]

#### North Dakota Regulatory Program

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** Office of Surface Mining Reclamation and Enforcement (OSM) is approving 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). North Dakota proposed deletions of statutes pertaining to the North Dakota Reclamation Research Advisory Committee. The amendment revised the North Dakota program to improve operational efficiency.

**EFFECTIVE DATE:** August 25, 1997.

**FOR FURTHER INFORMATION CONTACT:** Guy Padgett, Casper Field Office Director, Telephone: (307) 261-6550, Internet address: GPADGETT@CWYGW.OSMRE.GOV.

#### SUPPLEMENTARY INFORMATION:

##### I. Background on the North Dakota Program

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. General background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the North Dakota program can be found in the December 15, 1980, *Federal Register* (45 FR 82214). Subsequent actions concerning North Dakota's program and program amendments can be found at 30 CFR 934.15, 934.16, and 934.30.

##### II. Proposed Amendment

By letter dated May 2, 1997, North Dakota submitted a proposed amendment to its program (amendment No. XXIV, administrative record No. ND-Y-01) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota submitted the proposed amendment at its own initiative. The provisions of the North Dakota Century Code (NDCC) that North Dakota proposed to delete were: NDCC 38-14.1-04.1, Reclamation

Research Advisory Committee; NDCC 38-14.1-04.2, advisory committee responsibilities; and NDCC 38-14.1-04.3, reclamation research objectives.

OSM announced receipt of the proposed amendment in the June 5, 1997, *Federal Register* (62 FR 30800), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. ND-Y-06). Because no one requested a public hearing or meeting, none was held. The public comment period ended on July 7, 1997.

##### III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment submitted by North Dakota on May 2, 1997, is not inconsistent with SMCRA. Accordingly, the Director approves the proposed amendment.

*NDCC 38-14.1-04.1, 2, and 3, Reclamation Research Advisory Committee; Advisory Committee Responsibilities; Reclamation Research Objectives*

These actions established the Reclamation Research Advisory Committee, enumerated its responsibilities, and listed its objectives. As stated in the narrative that accompanied this State Program Amendment, the Committee was set up to review and inventory reclamation research projects that have been conducted in North Dakota, and to review and recommend proposed research projects that would be funded and administered by the Public Service Commission. Through the Committee, the Public Service Commission has carried out the reviews and inventories of reclamation research projects that have been carried out in North Dakota. With the closing of the North Dakota State University's Land Reclamation Research Center in Mandan and with very few other active reclamation research projects in the state, there is no longer a need for updating this inventory in the future. In addition, except for a few abandoned mined land research projects that were completed with Federal funds, no funds have been available to the Commission for carrying out reclamation research and no funds are anticipated for Commission funded reclamation research in the future. Since there is no longer a need for the committee, the North Dakota Legislative voted, and the Governor signed, legislation to repeal the provisions establishing it. Since the provisions concerning the Reclamation Research

Advisory Committee have no counterpart in SMCRA, repealing the provisions is not inconsistent with SMCRA.

##### IV. Summary and Disposition of Comments

Following are summaries of all written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

###### 1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

###### 2. Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(1)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the North Dakota program.

The U.S. Fish and Wildlife Service responded on June 25, 1997, that it believed the proposed changes by North Dakota are logical and reasonable (administrative record No. ND-Y-02).

The U.S. Army Corps of Engineers responded on June 24, 1997, that it concurs with the elimination of the committee (administrative record number ND-Y-04).

###### 3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(1)(i), OSM solicited comments from EPA (administrative record No. ND-Y-05). It responded June 26, 1997, with a "no comment" letter (administrative record No. ND-Y-03).

###### 4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (administrative record No. ND-Y-05). Neither SHPO nor ACHP responded to OSM's request.

##### V. Director's Decision

Based on the above finding, the Director approves North Dakota's proposed amendment as submitted on May 2, 1997. The Director approves, as discussed in the Director's Finding Section, deletion of NDCC 38-14.1-04.1, Reclamation Research Advisory Committee; NDCC 38-14.1-04.2, Advisory Committee Responsibilities; and NDCC 38-14.1-04.3, Reclamation Research Objectives.

The Federal regulations at 30 CFR Part 934, codifying decisions concerning the North Dakota program, are being

amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

**VI. Procedural Determinations**

**1. Executive Order 12866**

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

**2. Executive Order 12988**

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.

**3. National Environmental Policy Act**

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed States 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)).

**4. 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.*).

**5. 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.

**6. Unfunded Mandates**

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

**List of Subjects in 30 CFR Part 934**

Intergovernmental relations, Surface mining.

Dated: August 5, 1997.

**Richard J. Seibel,**

*Regional Director, Western Regional Coordinating Center.*

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

**PART 934—NORTH DAKOTA**

1. The authority citation for part 934 continues to read as follows:

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

2. Section 934.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

**§ 934.15 Approval of North Dakota regulatory program amendments.**

\* \* \* \* \*

Original amendment sub- mission date	Date of final publication	Citation/description
*	*	*
May 2, 1997 .....	August 25, 1997 .....	NDCC 38-14.1-04.1, .2, .3

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 51**

[FRL-5880-9]

RIN 2060-AG70

**Air Quality: Revision to Definition of Volatile Organic Compounds—Exclusion of 16 Compounds**

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

**ACTION:** Final rule.

**SUMMARY:** This action revises EPA's definition of volatile organic compounds (VOC) for purposes of preparing State implementation plans (SIP's) to attain the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (Act) and for any Federal implementation plan (FIP) for an ozone nonattainment area. This revision would add 16 compounds (shown in Table 2) to the list of compounds excluded from the definition of VOC on the basis that these compounds have negligible contribution to tropospheric ozone formation. These compounds have potential for use as refrigerants, aerosol propellants, fire extinguishants, blowing agents and solvents.

**DATES:** This rule is effective September 24, 1997.

**ADDRESSES:** The EPA has established a public docket for this action, A-96-36, which is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center (6102), 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** William Johnson, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division (MD-15), Research Triangle Park, NC 27711, phone (919) 541-5245.

**SUPPLEMENTARY INFORMATION:** *Regulated entities.* Entities potentially regulated by