

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

Surface mining, Underground mining.

David Berry,

Regional Director, Unified Interior Regions  
5, 7–11.

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

[SATS No. ND–056–FOR; Docket ID: OSM–2022–0010; S1D1S SS08011000 SX064A000 234S180110; S2D2S SS08011000 SX064A000 23XS501520]

**North Dakota Regulatory Program**

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

**ACTION:** Proposed rule/opening of public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), 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 changes to the North Dakota Century Code made by the 67th Legislative Assembly in response to Senate Bill 2317, introduced by the Department of Trust Lands, and the resulting rule changes to the North Dakota Administrative Code for surface coal mining and reclamation operations. The changes add a perfected lien or security interest in real property to the definition of collateral bond and add the conditions that must be met for real property pledged as collateral bond. This document gives the times and locations that the North Dakota program and this proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments on this amendment until 4 p.m., Mountain Daylight Time (MDT), June 20, 2023. If requested, we may hold a public hearing or meeting on the amendment on June 13, 2023. We will accept requests to speak at a hearing until 4 p.m., MDT on June 5, 2023.

**ADDRESSES:** You may submit comments, identified by SATS No. ND–056–FOR, by any of the following methods:

*Mail/Hand Delivery:* OSMRE, Attn: Jeffrey Fleischman, P.O. Box 11018, 100 East B Street, Room 4100, Casper, Wyoming 82601–1018.

*Fax:* (307) 261–6552.

*Federal eRulemaking Portal:* The amendment has been assigned Docket ID: OSM–2022–0010. If you would like to submit comments, go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than the ones listed above will be included in the docket for this rulemaking and considered.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to review copies of the North Dakota program, this amendment, a listing of any scheduled public hearings or meetings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSMRE’s Casper Area Office or the full text of the program amendment is available for you to read at [www.regulations.gov](http://www.regulations.gov).

*Attn:* Jeffrey Fleischman, Denver Field Division Chief, Office of Surface Mining Reclamation and Enforcement, Casper Area Office, P.O. Box 11018, 100 East B Street, Room 4100, Casper, Wyoming 82601–1018, Telephone: (307) 261–6555, email: [jfleischman@osmre.gov](mailto:jfleischman@osmre.gov).

In addition, you may review a copy of the amendment during regular business hours at the following location:

*Attn:* Zanna Brinkman, Reclamation Division Director, North Dakota Public Service Commission, 600 East Boulevard, Dept. 408, Bismarck, North Dakota 58505–0480, Telephone: (701) 328–2400, email: [zbrinkman@nd.gov](mailto:zbrinkman@nd.gov).

**FOR FURTHER INFORMATION CONTACT:**

Jeffrey Fleischman, Denver Field Division Chief, Office of Surface Mining Reclamation and Enforcement, Casper Area Office, P.O. Box 11018, 100 East B Street, Casper, Wyoming 82601–1018, Telephone: (307) 261–6555, email: [jfleischman@osmre.gov](mailto:jfleischman@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

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

**Background on 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 approved, State program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. 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 the North Dakota program and program amendments at 30 CFR 934.15 and 934.30.

**Description of the Proposed Amendment**

By letter dated December 9, 2022 (Administrative Record No. ND–RR–01), North Dakota sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota sent the amendment at its own initiative to include changes made to both the North Dakota Century Code (NDCC) and the North Dakota Administrative Code (NDAC). Changes to the NDCC were made by the 67th Legislative Assembly in response to Senate Bill No. 2317, which was introduced by the Department of Trust Lands. Senate Bill No. 2317 created and enacted Chapter 15–72 of the NDCC, which establishes a coal mine reclamation trust, which utilizes private assets pledged as collateral to fulfill performance bond obligations. A perfected lien or security interest in real property has been added to the definition of collateral bond in NDAC 69–05.2–01–02 and the conditions required for real property to be pledged as collateral bond have been added to NDAC 69–05.2–12–04. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at [www.regulations.gov](http://www.regulations.gov).

## 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 State program.

### Electronic or Written Comments

If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

### Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

### Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., MDT on June 15, 2023. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak

has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

### Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

## IV. Procedural Determinations

### Executive Order 12866—Regulatory Planning and Review and Executive Order 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of State program amendments is exempted from OMB review under Executive Order 12866. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

### Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSMRE for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

## List of Subjects in 30 CFR Part 934

Surface Mining, Underground Mining.

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Regional Director, Unified Interior Regions  
5, 7–11.

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 251

RIN 0596–AD35

#### Land Uses; Special Uses; Cost Recovery, Strict Liability Limit, and Insurance

**AGENCY:** Forest Service, Agriculture (USDA).

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** The Forest Service (Forest Service or Agency), United States Department of Agriculture, published a proposed rule in the **Federal Register** on March 9, 2023, initiating a 60-day comment period on the proposed rule to amend its special use regulations to update the processing and monitoring fee schedules based on current Agency costs; to provide for recovery of costs associated with processing special use proposals, as well as applications; and to remove the exemption for commercial recreation special use applications and authorizations that involve 50 hours or less to process or monitor. In addition, the Forest Service is proposing to amend its special use regulations to increase the strict liability limit consistent with the strict liability limit established by the United States Department of the Interior, Bureau of Land Management, and to expressly provide for requiring holders of a special use authorization to obtain insurance, as needed. The comment period for the original document closed May 8, 2023. The Agency is reopening the comment period for an additional 30 days from the date of publication of this document.

**DATES:** The comment period for the proposed rule published at 88 FR 14517 on March 9, 2023, is reopened. Comments must be received in writing by June 20, 2023.

**ADDRESSES:** Comments, identified by RIN 0596–AD35, should be sent via one of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for sending comments;