

60 days. In the rule, we are proposing to amend our regulations by clarifying the definition of "Indian lands" at 30 CFR 700.5 for purposes of implementing the Surface Mining Control and Reclamation Act of 1977. The proposed clarification is required pursuant to a settlement agreement between the Department of the Interior and the Navajo Nation and Hopi Indian Tribe to settle the tribes' challenges to a 1989 rulemaking governing coal leases and surface coal mining and reclamation operations on Indian lands. OSM is also proposing various changes to the Federal lands program at 30 CFR parts 740 and 746, and the Indian lands program at 30 CFR part 750, in conjunction with the proposed clarification to the definition of Indian lands.

Dated: April 8, 1999.

**Mary Josie Blanchard,**

*Assistant Director, Program Support.*

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 934

[SPATS No. ND-039-FOR; North Dakota Amendment No. XXVIII]

#### North Dakota Regulatory Program

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

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

**SUMMARY:** OSM is 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). The proposed amendment consists of revisions to a North Dakota statute pertaining to who may preside over formal hearings and informal conferences. The amendment is intended to revise a North Dakota statute to be consistent with its counterpart regulation.

**DATES:** We will accept written comments until 4:00 p.m., m.d.t. on May 17, 1999. If requested, a public hearing on the proposed amendment will be held on May 10, 1999. We will accept requests to present oral testimony at the hearing until 4:00 p.m., m.d.t. on April 30, 1999.

**ADDRESSES:** You should mail or hand-deliver written comments to Guy Padgett at the address shown below.

Copies of the North Dakota program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses shown below during normal business hours, Monday through Friday, excluding holidays. Also, we will send one free copy of the proposed amendment to you if you contact the OSM's 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, Telephone: 307/261-6550, Internet: GPadgett@OSMRE.GOV  
James R. Deutsch, Director, Reclamation Division, North Dakota Public Service Commission, 600 E. Boulevard Ave., Dept. 408, Bismarck, North Dakota 58505-0480, Telephone: 701/328-2400.

**FOR FURTHER INFORMATION CONTACT:** Guy Padgett, Telephone: 307/261-6550. Internet: GPadgett@OSMRE.GOV.

#### SUPPLEMENTARY INFORMATION:

#### I. Background of the North Dakota Program To Regulate Surface Coal Mining

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 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 and 934.16.

#### II. Proposed Amendment

In a letter dated March 31, 1999, North Dakota submitted a proposed amendment to its program to regulate surface coal mining pursuant to SMCRA (North Dakota Amendment number XXVIII), administrative record No. ND-CC-01, 30 U.S.C. 1201 *et seq.*) North Dakota submitted the proposed amendment at its own initiative in order to make the statute, the North Dakota Century Code (NDCC), consistent with its regulation, the North Dakota Administrative Code (NDAC), and also to make it in compliance with SMCRA. The provision of NDCC that North Dakota proposes to revise is: NDCC Chapter 38-14.1-30, Administrative

review of commission rulings—Formal hearings. Specifically, North Dakota proposes to revise its statute to state that no person who presides over an informal conference in reference to a permit application may preside at a formal administrative hearing or participate in making the final administrative decision.

#### III. What To Do if You Want To Comment on the Proposed Statute Change

In accordance with the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the North Dakota program to regulate surface coal mining.

##### 1. Written Comments

Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

##### 2. Public Hearing

Anyone wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t. on April 30, 1999. Anyone who is physically challenged and who has need for special accommodations to attend a public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, it will not be held.

We request that you file a written statement at the time of the hearing since it would assist the transcriber. Submission of written statements in advance of the hearing will allow us to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until everyone scheduled to testify has been heard. Anyone in the audience who has not been scheduled to testify, and who wishes to do so, will be heard following those who have been scheduled. The hearing will end after everyone scheduled to testify and anyone in the

audience who wishes to testify has been heard.

### 3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with us to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

## IV. 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 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)).

### 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, Underground mining.

Dated: April 7, 1999.

**Brent Walquist,**

*Regional Director, Western Regional Coordinating Center.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 100

[CGD01-99-009]

RIN 2115-AE46

#### Special Local Regulation: Fireworks Displays Within the First Coast Guard District

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes a revision to the Special Local Regulation (SLR), which governs annual fireworks displays (events) within the First Coast Guard District. This revision will expand the descriptions of the events' dates, times, and locations. A new easier-to-read table format will be introduced, which will list events by

month, date, and location. Obsolete events will be removed, and new events will be added. This regulation is necessary to control vessel traffic within the immediate vicinity of the fireworks launch sites and to ensure the safety of life and property during each event.

**DATES:** Comments must be received on or before June 14, 1999.

**ADDRESSES:** Comments should be mailed to Commander (osr), First Coast Guard District, Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, MA 02110-3350, or may be delivered to Room 734 at the same address, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays. Comments will become part of this docket and will be available for inspection or copying at the above address.

**FOR FURTHER INFORMATION CONTACT:** Petty Officer William M. Anderson, Office of Search and Rescue, First Coast Guard District, (617) 223-8460.

#### SUPPLEMENTARY INFORMATION:

#### Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Each person submitting comments should include his or her name and address, identify this notice (CGD01-99-009) and the specific section of the proposal to which each comment applies, and give the reason for each comment. Any person requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. All comments received during the comment period will be considered by the Coast Guard and may change this proposal.

The Coast Guard has no plans to hold a public hearing. Persons may request a public hearing by writing to Commander (osr), First Coast Guard District, at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If the Coast Guard determines that oral presentations will aid this rulemaking, it will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

#### Background and Purpose

Each year, organizations in the First District sponsor fireworks displays in the same general location and time period. The table in 33 CFR 100.114 contains information provided to the Coast Guard by the events' sponsors. The event description provides approximate dates and location which take place annually. Each event uses a barge or on-shore site as the fireworks