

(m) A divorced spouse annuity if the spouse claimant has remarried the employee during the six-month retroactive period of the spouse annuity application.

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Dated: May 1, 2001.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 01-12395 Filed 5-16-01; 8:45 am]

BILLING CODE 7905-01-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[ND-040-FOR; North Dakota State Program Amendment XXIX]

North Dakota Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: The 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). The amendment consists of changes to North Dakota's revegetation policy document, Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments. Many of the changes are the result of rule changes that were submitted as amendments to the North Dakota regulatory program and approved by OSM in the April 28, 1997, and March 16, 1999, **Federal Registers** (62 FR 22889, and 64 FR 12896), giving mining companies options for proving reclamation success and revising requirements for tree and shrub standards. The corresponding changes are now being incorporated into the policy document. Other changes include clarifications, adjusting crop yield data, adding factors for adjusting yield standards, requiring plant species to be predominantly native, providing consistency for diversity and seasonality, prescribing the number of species for tame pastureland and clarifying sampling procedures. North Dakota intended to revise its policy document to reflect changes to its statute and regulations and make it

consistent with corresponding Federal regulations and SMCRA.

EFFECTIVE DATE: May 17, 2001.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (307) 261-6550, Internet address: Gpadgett@OSMRE.GOV.

SUPPLEMENTARY INFORMATION:

- I. Background on the North Dakota Program
- II. Submission of the Proposed Amendment
- III. Director's Findings
- IV. Summary and Disposition of Comments
- V. Director's Decision
- VI. Procedural Determinations

I. Background of the North Dakota Program

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. You can find background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval in the December 15, 1980, **Federal Register** (45 FR 82214). North Dakota's "Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments," hereafter referred to as the "policy document" was submitted to OSM on June 1, 1988. The policy document was submitted to satisfy the requirements of 30 CFR 816.116(a)(1). The Federal regulations at 30 CFR 816.116(a)(1) require that regulatory authorities select revegetation success standards and statistically valid techniques for determining revegetation success and include them in its approved regulatory program. The policy document satisfies both these requirements. OSM's approval of the policy document was published in the March 10, 1989, **Federal Register** (46 FR 10141). Subsequent revisions to the policy document were approved by OSM on February 17, 1994, and January 8, 1999.

The North Dakota regulatory program contains specific rules governing standards for success of various postmining land uses in NDAC 69-05.2-22-07. These rules have been approved by OSM as being consistent with 30 CFR 816.111 and 816.116. North Dakota's policy document must be consistent with these State requirements.

You can find other actions concerning North Dakota's program and program amendments at 30 CFR 934.15 and 934.16.

II. Submission of the Proposed Amendment

By letter dated March 16, 2000, North Dakota sent us an amendment to its program (North Dakota State Program Amendment XXIX), administrative record No. ND-DD-01) under SMCRA (30 U.S.C. 1201 *et seq.*). The amendment revises North Dakota's revegetation policy document. Many of the changes are made to incorporate rule changes that were approved by OSM on April 28, 1997, and March 16, 1999, pertaining to the new option of proving reclamation success for three out of five years, starting no sooner than the eighth year of the responsibility period and revised reclamation success standards for woodlands and shelter belts.

In addition to revisions that are made as a result of rule changes previously approved by OSM, numerous other changes are also proposed. These changes include (1) clarifying the objectives section, (2) adding provisions to adjust North Dakota Agricultural Statistic Service crop yield data to reflect certain management practices, (3) including other factors, in addition to precipitation and temperature, in developing a cropland and/or tame pastureland regression equation to climatically adjust yield standards, (4) adding a statement to the native grassland section that established plant species must be predominantly native, (5) providing more consistency for species that must be present on tame pastureland, and (7) clarifying sampling procedures regarding when plant growth forms must be weighed separately. Some example calculations were also revised to better reflect premine conditions found at most of the mines. Editorial changes were made to correct errors in statistical formulas and revisions were made to the objectives section to clarify when certain requirements became effective.

We announced receipt of the proposed amendment in the March 31, 2000, **Federal Register** (65 FR 17211). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (administrative record No. ND-DD-04). We did not hold a public hearing or meeting because no one requested one. The public comment period ended at 4 pm m.d.t. May 1, 2000.

III. Director's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment revising

North Dakota's Revegetation Policy Document ("Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments") as described below.

1. Numerous Revisions To Reflect Changes to Rules Governing Requirements for Tree and Shrub Standards and Options for Proving Reclamation Success, Previously Approved by OSM as Amendments to the North Dakota Regulatory Program

a. OSM approved amendments to the North Dakota regulatory program in the April 28, 1997, **Federal Register** (62 FR 22889) revising NDAC 69-05.2-22-07. Revegetation standards for reclaimed woodlands and shelterbelts require that at least eighty percent of the trees, shrubs and half-shrubs counted for meeting standards to be in place for at least six years. New rule language states this standard will be deemed satisfied if the mine operator demonstrates that no tree, shrub or half-shrub replanting has occurred during the last six years of the responsibility period. This new language allows mining companies to count all shrubs on reclaimed lands that are established by natural regeneration during the entire revegetation responsibility period. The policy document is revised to reflect these approved changes.

b. OSM approved an amendment to the North Dakota regulatory program in the March 16, 1999, **Federal Register** (64 FR 12896) revising NDAC 69-05.2-22-07. This change gave mining companies the option of proving reclamation success for three out of five consecutive years, starting no sooner than the eighth year of the responsibility period. The responsibility period runs for at least ten years from the date reclaimed lands are seeded. Mining companies still have the option of proving reclamation success by meeting standards for the last two consecutive growing seasons of the responsibility period. The policy document is revised to reflect this approved change.

2. Minor Editorial Revisions to the Policy Document

a. Changing Soil Conservation Service (SCS) to Natural Resources Conservation Service (NRCS)

b. Citing both NRCS and SCS regarding consultation,

c. Updating the title of the NRCS National Range and Pasture Handbook (1997),

d. Correcting rule citations,

e. Changing the document to reflect that three years required for crop

production on prime farmlands need not necessarily be consecutive years.

These changes are minor and will not make North Dakota's revegetation policy document less effective than the Federal provisions contained in 30 CFR 816.111 and 816.116.

3. Adding Clarification or Improving Examples Given

a. Improving the examples provided, by reformatting and adding a standard test formula for convenience,

b. Clarifying when to use North Dakota Agricultural Service annual county yield data for alfalfa hay yield versus all other hay yield information when evaluating hayland/tame pastureland vegetation production,

c. Clarifying sampling of representative cropland strips, and

d. Clarifying that hand clipped production samples must be separated by growth forms only when used for assessing seasonality.

These changes are mostly clarifications, added explanations, or changes to improve existing examples. We find that they will not make North Dakota's revegetation policy document less effective than the Federal provisions contained in 30 CFR 816.116.

4. Approved Grazing on Native Grasslands

North Dakota proposed adding a statement to Section D. Native Grasslands encouraging the use of approved grazing on native grasslands during the responsibility period. However, initial grazing plans must be approved by the State in accordance with NDAC 69-05.2-22-06. This statement is consistent with State regulations.

5. Native Grasslands Must Be Predominantly Native Cool and Warm Season Grasses

North Dakota proposed adding a statement that native grasslands must be predominantly native cool and warm season grasses and other appropriate plant species in the approved seed mixtures. This statement is consistent with 30 CFR 816.111 which requires the use of species native to the area, or of introduced species where desirable and necessary to achieve the approved postmining land use.

6. Effective Date of Rules That Required Vegetation Measurements

In the Objectives section, North Dakota proposes clarifying the applicability of the revegetation success standards and time frames for evaluation to lands disturbed under the State program both prior to and

following the passage SMCRA. This includes language that August 1, 1980, was the effective date of rules that required vegetation measurements to be taken in the last two growing seasons of the revegetation responsibility period. The effective date of the option to prove reclamation success for three out of five consecutive years starting in the eighth year of the revegetation liability period was also added. These dates are the effective dates contained in the existing North Dakota regulations.

7. Vegetative Composition Requirements for Tame Pasturelands at Bond Release

North Dakota proposes to revise Section II-E to establish percentages for the vegetative composition requirements for tame pasturelands at bond release, consistent with the fish and wildlife habitat requirements, (previously there was no defined percentage for individual species). This ensures that the seeded species are present at the time of final bond release consistent with 30 CFR 816.111.

8. Predicting Estimated Summer Fallow or Continuous Cropping Yields

North Dakota proposes to revise the Cropland Section to include county-specific regression/correlation equations to predict the estimated summer fallow or continuous cropping yields based on annual county yields. The regression/correlation equations are based on long term county data. The equations were developed for the years of 1996 and later because the NDASS discontinued reporting individual yield values for summer fallow or continuous cropping after 1995.

The existing Cropland Section of the policy document, which applies to both prime farmland and non-prime farmland, allows the use of North Dakota Agricultural Statistics Service (NDASS) county cropland yields. This is consistent with 30 CFR 816.116(b)(2) which requires that for areas developed for use as cropland, crop production on the revegetated area shall be at least equal to that of a reference area or such other success standards approved by the regulatory authority.

For prime farmland only, 30 CFR 823.15(b)(7) states that Reference crop yields for a given crop season are to be determined from—(i) The current yield records of representative local farms in the surrounding area, with concurrence by the U.S. Soil Conservation Service (now the Natural Resources Conservation Service (NRCS)); or (ii) The average county yields recognized by the U.S. Department of Agriculture, which have been adjusted by the U.S. (NRCS) for local yield variation within the

county that is associated with differences between nonmined prime farmland soil and all other soils that produce the reference crop.

The prime farmland regulations at 30 CFR 823.15(b)(8) state that under either procedure in Paragraph (b)(7) of this Section, the average reference crop yield may be adjusted, with the concurrence of the U.S. Soil Conservation Service (NRCS), for—(i) Disease, pest, and weather-induced seasonal variations; or (ii) Differences in specific management practices where the overall management practices of the crops being compared are equivalent.

North Dakota's proposed county-specific regression/correlation equations to predict the estimated summer fallow or continuous cropping yields based on annual county yields are appropriate for creating technical standards. In accordance with 30 CFR 823.15(b)(8)(ii) for prime farmland standards (which are included under this section of the guidelines) the NRCS must concur with the proposed adjustment of average reference crop yields for differences in specific management practices where the overall management practices of the crops being compared are equivalent. In response to this requirement North Dakota provided a letter dated April 6, 2000, documenting the NRCS's concurrence with the proposed method for adjusting county yield data for summer fallow or continuous cropping.

9. Revise Correction Method 3 (Cropland) and 2 (Tame Pastureland)

North Dakota proposes to revise Correction Method 3 in Section II-C, Cropland, and Correction Method 2 in Section II-E, Tame Pastureland, to allow the use of other pertinent data, as well as precipitation and temperature to calculate a correction factor. It also allows the use of other formulas developed by the State besides regression equations.

30 CFR 816.116(b)(2) requires that for areas developed for use as cropland, crop production on the revegetated area shall be at least equal to that of a reference area or such other success standards approved by the regulatory authority. The approved policy document, sections II-C, Cropland, and II-E, Tame Pastureland, contain correction methods that allow the use of NDASS data in conjunction with precipitation and temperature data to calculate a correction factor. The regression equations will be developed or updated by the State. They would predict a deviation from the long term average NDASS yields based on current precipitation and growing season temperature.

For prime farmlands, 30 CFR 823.15(b)(7) states that Reference Crop yields for a given crop season are to be determined from—(i) The current yield records of representative local farms in the surrounding area, with concurrence by the U.S. Soil Conservation Service (NRCS); or (ii) The average county yields recognized by the U.S. Department of Agriculture, which have been adjusted by the U.S. Soil Conservation Service (NRCS) for local yield variation within the county that is associated with differences between nonmined prime farmland soil and all other soils that produce the reference crop.

The prime farmland regulations at 30 CFR 823.15(b)(8) require that under either procedure in Paragraph (b)(7) of this Section, the average reference crop yield may be adjusted, with the concurrence of the U.S. Soil Conservation Service (NRCS), for—(i) Disease, pest, and weather-induced seasonal variations; or (ii) Differences in specific management practices where the overall management practices of the crops being compared are equivalent.

In support of the proposed language to allow the use of other pertinent data in developing correction factors for any regression equations that are developed, North Dakota has stated that pertinent data includes other factors such as number of days during critical parts of the growing season where the maximum temperature exceeds a certain level, the incidence of widespread crop disease and/or insect damage. Based on the information provided and the NRCS concurrence discussed below the proposed revision of the two correction methods is appropriate.

Pursuant to 30 CFR 823.15(b)(8) for prime farmland standards (which are included under the Cropland section of the guidelines) North Dakota has provided a letter dated April 6, 2000 (administrative record No. ND-DD-05), documenting the NRCS's concurrence with the proposed changes to the correction methods.

10. Diversity and Seasonality Standards for Native Grassland

North Dakota proposes to revise its diversity and seasonality standards contained in Section II-D, for Native Grassland. As proposed the State would add an introduction to the diversity standard that the presence of adequate plant species diversity in the reclaimed native grasslands is of much importance because it reflects environmental/community stability and ensures some degree of sustainability under the intended land use. Both cool and warm season grass species are important and

needed in native grasslands. Therefore, reclaimed native grasslands must be established predominantly with both cool and warm season native grass species and other appropriate plant species in the approved seed mixtures. The diversity and seasonality standards that follow require that either production or cover data be used to show that the standards have been achieved.

The diversity and seasonality standards can be based on the range sites that occurred in the premine native grassland tract or they can be based on the range sites that are expected to develop on the reclaimed tract. However, the same methodology must be used when measuring both diversity and seasonality in each of the years these measurements are taken on a given tract. That is if the diversity standard is based on the premine range sites, the seasonality standard must also be based on the premine range sites.

If the diversity and seasonality standards will be based on the range sites that are expected to develop on the reclaimed tract, the discussion of this method in the permit application must address the projected native grassland topsoil and subsoil respread thicknesses and the maximum postmining slopes, with a reference to the postmining area slope map provided in another section of the permit. Soils of the reclaimed tract may be characterized by evaluating the premine soil survey data and the expected mixing that will occur. Following revegetation, a field assessment will be needed to verify the site types on the reclaimed native grassland.

In addition, all the examples for calculating diversity have been revised to reflect the revised diversity standards.

The seasonality standard is also being revised. Seasonality will be based on the percentage of warm season grasses because cool season grasses are very competitive and generally dominate a seeded stand in the Northern Great Plains. To evaluate seasonality of reclaimed native grassland, one of two following standards may be used. Both standards allow the use of either the pre-mine range sites or the range sites that are expected to develop on the reclaimed tract. As previously noted, the same methodology used to measure diversity must be used to measure seasonality. Both standards are based on the percent composition of warm season grasses relative to total species composition. The example seasonality calculations have also been revised to reflect the revised standard.

The Federal regulations at 30 CFR 816.111(a)(1) require that the permittee shall establish on regraded areas and on all other disturbed areas except water areas and surface areas of roads that are approved as part of the postmining land use, a vegetative cover that is in accordance with the approved permit and reclamation plan and that is diverse, effective, and permanent. 30 CFR 816.111(b)(2) requires that the reestablished plant species shall have the same seasonal characteristics of growth as the original vegetation. Beyond this language no specific success standards are provided for diversity or seasonality. This is left to the discretion of the regulatory authority. North Dakota's proposed diversity and seasonality standards are consistent with the Federal regulations and are no less effective.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (administrative record No. ND-DD-03), but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i), we requested on March 30, 2000, comments on the amendment from various Federal agencies with an actual or potential interest in the North Dakota program (administrative record No. ND-DD-03).

Thomas E. Jewett, State Conservationist for the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS), in addition to stating in his April 6, 2000 letter to North Dakota Reclamation Division Director James R. Deutsch, that "We concur with all proposed changes. * * *" further commented on recent changes to NRCS cropland productivity indexes that are used in North Dakota's revegetation document. In an April 11, 2000 letter to OSM Casper Field Office Director, Guy Padgett, North Dakota Reclamation Division Director James R. Deutsch stated, "Please be advised we plan to incorporate the updated indexes into the document the next time some changes are made."

State Conservationist Thomas E. Jewett, further responded with a May 2, 2000 letter (administrative record No. ND-DD-06) to OSM Casper Field Office Director, Guy Padgett, that NRCS is in the process of developing Ecological Site Descriptions to replace Range Site Descriptions. It also questioned what reference sites might be used if soil chemistry or other critical soil parameters were sufficiently altered on reclaimed areas.

NRCS also raised the possibility that a native grassland reference area may be located on rangeland that is in poor condition. In addition, that NRCS references should be made to specific parts of the Field Office Technical Guide. Finally, that vegetation document text references should be to the current name of the agency, the Natural Resources Conservation Service, and not to its former name, the Soil Conservation Service.

In his June 23, 2000 response (administrative record No. ND-DD-07) to Mr. Jewett's May 2, 2000 letter, the director of the Reclamation Division of the North Dakota Public Service Commission, James R. Deutsch, stated that: (1) He was aware that Ecological Site Descriptions will be replacing Range Site Descriptions but that it would be several years at which time he would decide if it is necessary to revise the revegetation document accordingly; (2) that a reference area and a reclaimed tract must receive management that is equivalent in effect during the revegetation responsibility period; and (3) that North Dakota will review the bibliography and references for possible changes with the next revision to the revegetation document.

OSM concurs with Mr. Deutsch's response to Mr. Jewett's concerns.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i), OSM requested comments on the amendment from EPA (administrative record No. ND-DD-03). EPA did not respond to our request.

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

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On March 30, 2000, we requested comments on North Dakota's amendment (administrative record No. XXIX), but neither responded to our request.

V. Director's Decision

Based on the above findings, we approve the amendment sent to us by North Dakota, as revised on March 16, 2000.

We approve, as discussed in: finding No. 1, Minor Editorial changes, finding No. 2, concerning II-C, Cropland; finding No. 3, concerning II-C and II-E, Cropland and Tame Pastureland; and finding No. 4, concerning Native Grassland.

To implement this decision, we are amending the Federal regulations at 30 CFR part 934, which codify decisions concerning the North Dakota program. We are making his final rule effective immediately to expedite the State program amendment process and to encourage States to make their programs conform with the Federal standards. SMCRA requires consistency of State and Federal standards.

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

This rule does not require an environmental impact statement because 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

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on any local, State, or Tribal governments or private entities.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 3, 2001.

Brent Wahlquist,

Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 934 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 submission date	Date of final publication	Citation/description
* * * * *	* * * * *	* * * * *
March 16, 2000	May 17, 2001	Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments.

[FR Doc. 01-12456 Filed 5-16-01; 8:45 am]
 BILLING CODE 4310-05-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE 054-1031a; FRL-6981-4]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Nitrogen Oxides Budget Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the Delaware State Implementation Plan (SIP) submitted on November 17, 2000. This revision responds to the EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO_x SIP Call." This revision establishes and requires a nitrogen oxides (NO_x) allowance trading program for large electric generating and industrial units, beginning in 2003. The intended effect of this action is to approve the Delaware NO_x Budget Trading Program because it addresses the requirements of the NO_x SIP Call

Phase I that will significantly reduce ozone transport in the eastern United States. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on July 16, 2001 without further notice, unless EPA receives adverse written comment by June 18, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Cristina Fernandez, (215) 814-2178, or by e-mail at fernandez.cristina@epa.gov.

SUPPLEMENTARY INFORMATION: On November 17, 2000, the Delaware Department of Natural Resources and Environmental Control (DNREC)

submitted a revision to its SIP to address the requirements of the NO_x SIP Call Phase I. The revision consists of the adoption of Regulation No. 39—Nitrogen Oxides Budget Trading Program.

The information in this section is organized as follows:

- I. EPA's Action
 - A. What action is EPA taking today?
 - B. Why is EPA taking direct final action?
 - C. What are the general NO_x SIP Call requirements?
 - D. What is EPA's NO_x budget trading program?
 - E. What guidance did EPA use to evaluate Delaware's submittal?
- II. Delaware's NO_x Budget Trading Program
 - A. When did Delaware submit the SIP revision to EPA in response to the NO_x SIP Call?
 - B. What is the Delaware NO_x Budget Trading Program?
 - C. What is the result of EPA's evaluation of Delaware's program?
- III. Final Action
 - A. NO_x SIP Call Requirements
 - B. One-Hour Attainment Demonstration Plans
- IV. Administrative Requirements
 - A. General Requirements
 - B. Submission to Congress and the Comptroller General
 - C. Petitions for Judicial Review

I. EPA's Action

A. What Action Is EPA Taking Today?

EPA is taking direct final action to approve the Delaware SIP revision concerning the adoption of its NO_x