

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-111578-06]

RIN 1545-BF56

**Computer Software Under Section 199 (c)(5)(B); Hearing****AGENCY:** Internal Revenue Service, Treasury.**ACTION:** Change of location for public hearing.

**SUMMARY:** This document provides a change of location for a public hearing on proposed regulations under section 199 of the Internal Revenue Code. The regulations provide a deduction for income attributable to domestic production activities to certain transactions involving computer software.

**DATES:** The public hearing is being held on Tuesday, August 29, 2006, at 10 a.m.**ADDRESSES:** The public hearing was originally being held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington DC. The hearing location has changed. The public hearing will be held in the IRS Auditorium (New Carrollton location), 5000 Ellin Road, Lanham, MD 20706.**FOR FURTHER INFORMATION CONTACT:** Guy R. Traynor, (202) 622-7180 or Richard Hurst at [Richard.A.Hurst@irs.counsel.treas.gov](mailto:Richard.A.Hurst@irs.counsel.treas.gov).**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is a notice of proposed rulemaking (REG-111578-06) that was published in the **Federal Register** on Thursday, June 1, 2006 (71 FR 31128).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who submitted written comments by August 30, 2006, and outlines by August 8, 2006, may present oral comments at the hearing.

A period of 10 minutes is allotted to each person for presenting oral comments. The IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing.

**Guy R. Traynor,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. E6-12142 Filed 7-28-06; 8:45 am]

BILLING CODE 4830-01-P

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

[ND-049-FOR, Amendment No. XXXVI]

**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 intends to revise its program to incorporate the additional flexibility afforded by the revised Federal regulations, clarify ambiguities, and improve operational efficiency.

This document gives the times and locations that the North Dakota program and 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., m.d.t. August 30, 2006. If requested, we will hold a public hearing on the amendment on August 25, 2006. We will accept requests to speak until 4 p.m., m.d.t. on August 15, 2006.**ADDRESSES:** You may submit comments, identified by SATS No. ND-049-49, by any of the following methods:

- E-mail: [jfleischman@osmre.gov](mailto:jfleischman@osmre.gov). Include "ND-049-FOR" in the subject line of the message.
- Mail/Hand Delivery/Courier: Jeffrey W. Fleischman, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 150 East B Street, Rm 1018, Casper, Wyoming 82602, 307/261-6550.
- Fax: 307/261-6552.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

**Instructions:** All submissions received must include the agency name and ND-049-FOR. 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:** Access to the docket, to 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, may be obtained 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's (OSM) Casper Field Office. In addition, you may review a copy of the amendment during regular business hours at the following locations:

Jeffrey W. Fleischman, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 150 East B Street, Rm 1018, Casper, Wyoming 82602, 307/261-6550, E-mail: [jfleischman@osmre.gov](mailto:jfleischman@osmre.gov).

James R. Deutsch, Reclamation Division, Public Service Commission, 600 E. Boulevard Ave. Dept. 408, Bismarck, North Dakota 58508-0480, 701/328-2410, Internet: <http://www.ndpsc.state.nd.us>.

**FOR FURTHER INFORMATION CONTACT:**

Jeffrey W. Fleischman, Telephone: 307/261-6552. E-mail: [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

**I. 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 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 934.15 and 934.30.

## II. Description of the Proposed Amendment

By letter dated May 24, 2006, North Dakota sent us a proposed amendment to its program (Amendment number XXXVI, administrative record No. ND-KK-01) under SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota sent the amendment to include changes made at its own initiative. The full text of the program is available for you to read at the locations listed above under

### ADDRESSES.

Specifically, North Dakota proposes to:

- Add language to North Dakota's Coal Rules at North Dakota Administrative Code (NDAC) 69-05.2-06-03 (right-of-entry requirements) to allow a permittee to delete coal leases from the permit when mining on a tract covered by a lease that is no longer needed to show surface right of entry, or when a coal lease has otherwise been terminated (however, if the coal lease no longer provides the surface right of entry, other documents granting the permittee right of entry must be added to the permit).
- Delete language in North Dakota's Coal Rules at NDAC 69-05.2-10-01 that requires the newspaper notice for permit applications include a reference to the U.S. Geological Survey map that contains the area, and limits the listing of coal owners in the notice to those that will be affected by the mining activities.
- Revise the bond release application requirements in North Dakota's Coal Rules at NDAC 69-05.2-12-12 to require the filing of a copy of the newspaper advertisement instead of requiring the submittal of affidavits of publication.
- Revise sedimentation pond inspection requirements at NDAC 69-05.2-16-09 to make a better distinction between inspections that must be conducted while a pond is being constructed versus annual inspection reports that must be prepared by a registered professional engineer.
- Revise revegetation success standards at NDAC 69-05.2-22-07 to allow data collected from native grassland, tame pastureland and cropland in any two years after year six of the ten-year revegetation liability period to be used for final bond release purposes.

## 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 written 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-049-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 307/261-6552. In the final rulemaking, we will not consider or include in the administrative record any electronic comments received after the time indicated under **DATES** or at e-addresses other than the Casper Field Office.

## Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

## Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.d.t. on August 15, 2006. If you are disabled and need special 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 the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a 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 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

### Executive Order 12866—Regulatory Planning and Review

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

### Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 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 because each 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.

#### *Executive Order 13132—Federalism*

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.” Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be “in accordance with” the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations “consistent with” regulations issued by the Secretary pursuant to SMCRA.

#### *Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian Tribes and have determined that the rule does not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. The rule does not involve or affect Indian Tribes in any way.

#### *Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

#### *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. 4321 et seq.).

#### *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. 3501 et seq.).

#### *Regulatory Flexibility Act*

The Department of the Interior certifies 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, which 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. 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.

#### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), of the Small Business Regulatory Enforcement Fairness Act.

This rule:

- a. Does not have an annual effect on the economy of \$100 million.
- b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

#### *Unfunded Mandates*

This rule will not impose an unfunded Mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a

determination made that the Federal regulation did not impose an unfunded mandate.

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

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 28, 2006.

**Allen D. Klein,**

*Director, Western Region.*

[FR Doc. E6–12203 Filed 7–28–06; 8:45 am]

**BILLING CODE 4310–05–P**

## **DEPARTMENT OF THE INTERIOR**

### **Office of Surface Mining Reclamation and Enforcement**

#### **30 CFR Part 938**

**[PA–148–FOR]**

#### **Pennsylvania 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 the receipt of a proposed amendment to the Pennsylvania regulatory program (hereinafter, the “Pennsylvania program”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The proposed amendment (Administrative Record Number PA 887.00) was submitted to clarify the requirements for shaft and slope development and other issues relating to blasting at a mine site.

This document gives the times and locations that the Pennsylvania program and this submittal are available for your inspection, the comment period during which you may submit written comments, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments until 4 p.m., local time August 30, 2006. If requested, we will hold a public hearing on August 25, 2006. We will accept requests to speak until 4 p.m., local time on August 15, 2006.

**ADDRESSES:** You may submit comments, identified by “PA–148–FOR” by any of the following methods:

- *E-mail:* [grieger@osmre.gov](mailto:grieger@osmre.gov).
- *Mail/Hand Delivery:* George Rieger, Director, Pittsburgh Field Division, Office of Surface Mining Reclamation and Enforcement, 415 Market Street, Room 304, Harrisburg, PA 17101, Telephone: (717) 782–4036.