

three years, provided and maintained administrative office space for a CBP office. Roanoke Regional Airport and Virginia Tech/Montgomery Executive Airport have also provided adequate facilities for regular CBP operations, including passenger and cargo inspection areas, and storage areas as necessary.

CBP believes that the New River Valley community is committed to making optimal use of electronic data transfer capability to permit integration with the CBP Automated Commercial System for processing entries. The New River Valley User Fee Airport has, for over three years, provided and maintained electronic data equipment software necessary to conduct regular CBP business. CBP has been informed that the airport is committed to upgrade equipment as necessary and, in fact, is currently in the process of installing a frame relay computer system, at no expense to the Federal Government, in order that adequate integration may be maintained with the Department of Homeland Security and the CBP systems.

#### Conditional Status

Based on the information above and the level and pace of development in New River Valley and the surrounding area, CBP believes that there is sufficient justification for the establishment of New River Valley, Virginia, as a port of entry on a conditional basis. If, after reviewing the public comments, CBP decides to create a port of entry at New River Valley and terminate New River Valley Airport's designation as a user-fee airport, then CBP will notify the airport of that determination in accordance with the provisions of 19 CFR 122.15(c). However, it is noted that this proposal relies on potential (within approximately 3 years), rather than actual, workload figures. Therefore, even if the proposed port of entry designation is adopted as a final rule, CBP will, in 3 years, review the actual workload generated within the new port of entry. If that review indicates that the actual workload is below the T.D. 82-37 (as amended) standards, procedures may be instituted to revoke the port of entry status. In such case, the airport may reapply to become a user-fee airport under the provisions of 19 U.S.C. 58b.

#### Description of Proposed Port of Entry Limits

The geographical limits of the proposed New River Valley port of entry would be as follows: The continuous outer boundaries of the Montgomery,

Pulaski and Roanoke counties in the Commonwealth of Virginia.

#### Proposed Amendments to Regulations

If the proposed port of entry designation is adopted, the list of CBP ports of entry at 19 CFR 101.3(b)(1) will be amended to add New River Valley as a port of entry in Virginia, and New River Valley Airport will be deleted from the list of user-fee airports at 19 CFR 122.15(b).

#### Comments

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to CBP, including comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and 19 CFR 103.11(b), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

#### Authority

This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66, and 1624.

#### Executive Order 12866 and the Regulatory Flexibility Act

With DHS approval, CBP establishes, expands and consolidates CBP ports of entry throughout the United States to accommodate the volume of CBP-related activity in various parts of the country. The Office of Management and Budget has determined that this regulatory proposal is not a significant regulatory action as defined under Executive Order 12866. This proposed rule also will not have significant economic impact on a substantial number of small entities. Accordingly, it is certified that this document is not subject to the additional requirements of the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a) because the establishment of a new port of entry and the termination of the user-fee status of an airport are not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, the

notice of proposed rulemaking may be signed by the Secretary of Homeland Security (or his or her delegate).

#### Drafting Information

The principal author of this document was Steven Bratcher, Regulations Branch, Office of Regulations and Rulings, CBP. However, personnel from other offices participated in its development.

Dated: April 29, 2005.

**Robert C. Bonner**,  
*Commissioner, Customs and Border Protection.*

Dated: June 23, 2005.

**Michael Chertoff**,  
*Secretary.*

[FR Doc. 05-13120 Filed 7-1-05; 8:45 am]

BILLING CODE 4820-01-P

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 934

[SATS No. ND-048, North Dakota  
Amendment No. XXXV]

#### 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 proposes revisions to rules which reduce notice requirements associated with bond release applications. North Dakota intends to revise its program to 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 4, 2005. If requested, we will hold a public hearing on the amendment on August 1, 2005. We will accept requests to speak until 4 p.m., m.d.t. on July 20, 2005.

**ADDRESSES:** You may submit comments, identified by "SATS No. ND-048, North Dakota Amendment XXXV", by any of the following methods:

- E-mail: [fatencio@osmre.gov](mailto:fatencio@osmre.gov).

- Mail/Hand Delivery/Courier:

Frank Atencio, Acting Director,  
Casper Field Office, Office of Surface  
Mining Reclamation and Enforcement,  
Federal Building, 100 East B Street,  
Room 1018, Casper, WY 82601-1018,  
(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 SATS No. ND-048-FOR. For 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, and all written comments received in response to this document you must go to 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:

Casper Field Office, Office of Surface  
Mining Reclamation and  
Enforcement, Federal Building, 100  
East B Street, Room 1018, Casper, WY  
82601-1018, (307) 261-6550,  
[fatencio@osmre.gov](mailto:fatencio@osmre.gov).

James R. Deutsch, Director, Reclamation  
Division, Public Service Commission,  
600 E. Boulevard Ave. Dept. 408,  
Bismarck, North Dakota 58505-0480,  
(701) 328-2400.  
[ndpsc@state.us.nd.us](mailto:ndpsc@state.us.nd.us).

**FOR FURTHER INFORMATION CONTACT:**  
Frank Atencio, Telephone: (307) 261-  
6550. Internet: [fatencio@osmre.gov](mailto:fatencio@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 934.10, 934.12, 934.15, 934.16, and 934.30.

#### **II. Description of the Proposed Amendment**

By letter dated April 20, 2005, North Dakota sent us a proposed amendment to its program ([Amendment number XXXV], administrative record No. ND-JJ-01) under SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota sent the amendment to include the changes made at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

Specifically, North Dakota proposes to make two changes to reduce some of the notice requirements associated with bond release applications.

The first change deletes the requirement that the permittee publish newspaper notices in daily newspapers of general circulation in the mine's locality. However, the permittee is still required to publish bond release notices, once a week for four consecutive weeks, in the official county newspaper where the bond release tract is located.

The second change deletes language that requires the permittee to send bond release notices to subsurface owners of tracts proposed for bond release. Mining companies will still be required to send bond release notices to the surface owners of the bond release tracts and the adjoining property owners.

#### **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 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-048-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) 261-6555.

#### *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 July 20, 2005. 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. 4332(2)(C)).

##### *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; and (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 1, 2005.

Allen D. Klein,

Director, Western Region.

[FR Doc. 05-13124 Filed 7-1-05; 8:45 am]

BILLING CODE 4310-05-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 194**

[FRL-7931-5]

#### **Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From the Hanford Site for Disposal at the Waste Isolation Pilot Plant**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of availability; opening of public comment period.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing the availability of, and soliciting public comments for 30 days on, Department of Energy (DOE) documents applicable to characterization of transuranic (TRU) radioactive waste at the Hanford site proposed for disposal at the Waste Isolation Pilot Plant (WIPP). The documents are available for review in the public dockets listed in

**SUPPLEMENTARY INFORMATION.** EPA's inspection of waste characterization systems and processes at Hanford is conducted to verify that the site can characterize transuranic waste in accordance with EPA's WIPP compliance criteria. EPA performed this inspection the week of June 20, 2005.

**DATES:** EPA is requesting public comment on the documents. Comments must be received by EPA's official Air Docket on or before August 4, 2005.

**ADDRESSES:** Comments may be submitted by mail to: EPA Docket Center (EPA/DC), Air and Radiation Docket, Environmental Protection Agency, EPA West, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. OAR-2005-0143. Comments may also be submitted electronically, by facsimile, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I.B. of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rajani D. Joglekar, Office of Radiation and Indoor Air, (202) 343-9462. You

can also call EPA's toll-free WIPP Information Line, 1-800-331-WIPP or visit our Web site at <http://www.epa.gov/radiation/wipp>.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

##### *A. How Can I Get Copies of This Document and Other Related Information?*

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. OAR-2005-0143. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742. These documents are also available for review in paper form at the official EPA Air Docket in Washington, DC, Docket No. A-98-49, Category II-A2, and at the following three EPA WIPP informational docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Monday-Thursday, 10 a.m.-9 p.m., Friday-Saturday, 10 a.m.-6 p.m., and Sunday, 1 p.m.-5 p.m.; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: vary by semester; and in Santa Fe at the New Mexico State Library, Hours: Monday-Friday, 9 a.m.-5 p.m. As provided in EPA's regulations at 40 CFR part 2, and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying.

2. *Electronic Access.* You may access this Federal Register document electronically through the EPA Internet under the Federal Register listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/>

to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.