



## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 934

[SATS No. ND-058-FOR; Docket ID: OSM-2025-0038; S1D1S SS08011000

SX064A000 256S180110; S2D2S SS08011000 SX064A000 25XS501520]

#### North Dakota Reclamation Plan

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

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

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), announce receipt of a proposed amendment to the North Dakota abandoned mine land (AML) reclamation plan (the North Dakota plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The proposed amendment updates the purposes for which the North Dakota abandoned mine reclamation fund may be used and creates a set-aside trust account in the State treasury. The definition of eligible lands and water and project priorities are also revised.

**DATES:** We will accept written comments on this amendment until 4:00 p.m., Mountain Daylight Time (M.T.), [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. If requested, we may hold a public hearing or meeting on the amendment on [INSERT DATE 25 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. We will accept requests to speak at a hearing until 4:00 p.m., M.T. on [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** You may submit comments, identified by State Amendment Tracking System (SATS) No. ND-058-FOR, by any of the following methods:

- *Mail/Hand Delivery:* OSMRE, Attn: Jeffrey Fleischman, P.O. Box 11018, 100 East B Street, Room 4100, Casper, Wyoming 82601-1018.
- *Federal eRulemaking Portal:* The amendment has been assigned Docket ID: OSM-2025-0038. If you would like to submit comments, go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

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

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

Attn: Jeffrey Fleischman, Denver Field Division Chief, Office of Surface Mining Reclamation and Enforcement, Casper Area Office, PO Box 11018, 100 East B Street, Room 4100, Casper, Wyoming 82601-1018. Telephone: (307) 204-4397. Email:

*[jfleischman@osmre.gov](mailto:jfleischman@osmre.gov)*

In addition, you may review a copy of the proposed amendment during regular business hours at the following location: Attn: Jonathan Emmer, AML Division Director, North Dakota Public Service Commission, 600 East Boulevard, Dept. 408, Bismarck, North Dakota 58505-0480. Telephone: (701) 328-4094. Email: *[jemmer@nd.gov](mailto:jemmer@nd.gov)*.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Fleischman, Denver Field Division Chief, Office of Surface Mining Reclamation and Enforcement, Casper Area Office, PO Box 11018, 100 East B Street Casper, Wyoming 82601-1018. Telephone:

**SUPPLEMENTARY INFORMATION:**

- I. Background on the North Dakota Reclamation Plan
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Statutory and Executive Order Review

**I. Background on the North Dakota Reclamation Plan**

OSMRE's Abandoned Mine Land Reclamation Program was established by title IV of the Act (30 U.S.C. 1201 *et seq.*), in response to concerns over extensive environmental damage caused by coal mining activities prior to the enactment of SMCRA. Traditionally, this program has been funded primarily by a reclamation fee collected by OSMRE on each ton of coal that is produced. The money is placed in the Federal Abandoned Mine Reclamation Fund and is distributed to States and Tribes with approved reclamation plans as grants to be used to finance the reclamation of coal mines abandoned before the enactment of SMCRA and left in an unreclaimed or inadequately reclaimed condition and for certain other purposes.

Section 405 of the Act (30 U.S.C. 1235) allows States and Tribes to assume exclusive responsibility for AML reclamation activity on lands within their jurisdiction if they develop and submit to the Secretary of the Interior for approval, a reclamation plan for the reclamation of abandoned coal mines. On the basis of these criteria, the Secretary of the Interior conditionally approved the North Dakota Abandoned Mine Plan on July 27, 1992. You can find background information on the North Dakota plan, including the Secretary's findings, the disposition of comments, and conditions of approval of the North Dakota program in the July 27, 1992, *Federal Register* (57 FR 33116).

**II. Description of the Proposed Amendment**

By letter dated September 10, 2025 (Administrative Record No. ND-058-01),

North Dakota sent us an amendment to its plan under SMCRA (30 U.S.C. 1201 *et seq.*). Through Senate bill 2117 (SB 2117), North Dakota proposed changes to chapter 38-14.2 of the North Dakota Century Code (NDCC) in response to the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58), the Consolidated Appropriations Act, 2023 (Pub. L. No. 117-328), and changes to title 30, chapter VII, subchapter R of the Code of Federal Regulations.

This proposed amendment updates the purposes for which the North Dakota abandoned mine reclamation fund may be used and creates a set-aside trust account in the State treasury. The definition of eligible lands and water and project priorities are also revised. The full text of the plan amendment is available for you to read at the locations listed above under **ADDRESSES** or at [www.regulations.gov](http://www.regulations.gov).

### **III. Public Comment Procedures**

We are seeking your comments on whether the amendment satisfies the applicable plan approval criteria of 30 CFR 884.14 and 884.15. If we approve the amendment, it will become part of the North Dakota reclamation plan.

#### *Electronic or Written Comments*

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

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be

included in the docket for this rulemaking and considered.

### *Public Availability of Comments*

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

### *Public Hearing*

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., M.T. on [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

### *Public Meeting*

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR**

**FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the administrative record.

#### **IV. Statutory and Executive Order Review**

*Executive Order 12866 - Regulatory Planning and Review and Executive Order 13563—Improving Regulation and Regulatory Review*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993 (OMB Memo M-94-3), the approval of reclamation plan amendments is exempted from OMB review under Executive Order 12866.

*Other Laws and Executive Orders Affecting Rulemaking*

When a State submits a plan amendment to OSMRE for review, our regulations at 30 CFR 884.14 and 884.15, and agency policy require public notification and an opportunity for public comment. We accomplish this by publishing a notice in the *Federal Register* indicating receipt of the proposed amendment and its text or a summary of its terms.

We will conclude our review of the proposed amendment after the close of the public comment period and will determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

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

Intergovernmental relations, Surface mining, Underground mining

**Marcelo Calle,**  
*Acting Regional Director,*  
*Unified Interior Regions 5, 7 – 11.*

