have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rulemaking 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 rulemaking is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rulemaking: (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 rulemaking, 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 rulemaking.

Unfunded Mandates

This rulemaking 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 rulemaking, 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 916

Intergovernmental relations, Surface mining.

Dated: August 14, 2018.

Alfred L. Clayborne,

Regional Director, Mid-Continent Region.

Editorial note: This document was received for publication by the Office of the Federal Register on May 6, 2019.

For the reasons set out in the preamble, 30 CFR part 916 is amended as set forth below:

PART 916—KANSAS

■ 1. The authority citation for part 916 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 916.25 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 916.25 Approval of Kansas abandoned mine land reclamation plan amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
February 23, 2016	May 9, 2019	Abandoned Mine Land Reclamation Plan for the State of Kansas.

[FR Doc. 2019–09557 Filed 5–8–19; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[SATS No. ND–054–FOR; Docket ID: OSM–2016–0009; S1D1S SS08011000 SX064A000 178S180110; S2D2S SS08011000 SX064A000 17XS501520]

North Dakota Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving an amendment to the North Dakota regulatory program (North Dakota program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). This amendment, proposed by North Dakota, makes numerous rule changes to the North Dakota Administrative Code for surface coal mining and reclamation operations based on statutory changes that were made during North Dakota's 2015 Legislative Session. The statutory changes added a definition of ''commercial leonardite'' (oxidized lignite) and excluded commercial leonardite from the statutory definition of ''coal.'' The statutory changes also added the phrase ''and commercial leonardite'' and ''or commercial leonardite'' to many other sections of North Dakota's reclamation statute. The statutory changes necessitated a number of similarly related changes to North Dakota's administrative rules. Finally, some of North Dakota's proposed rule revisions include minor non-substantive grammatical, codification, and statutory citation cross-reference changes. North Dakota's revisions are intended to improve operational efficiency. OSMRE does not have any corresponding statutes or regulations about leonardite, and the changes are consistent with OSMRE policy about leonardite. As such, North Dakota's proposed statutory and regulatory changes add specificity about the regulation of leonardite beyond that contained in SMCRA and the Federal regulations, and we are approving them. OSMRE's approval of North Dakota's proposed statutory and regulatory changes are solely for purposes of complying with SMCRA and may not be viewed as waiving any property interests that the United States may have in leonardite deposits that are part of the federal coal estate in certain lands in North Dakota.

DATES: The effective date is June 10, 2019.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Chief, Denver Field Division, Telephone: 307–261–6550, Email address: *jfleischman@OSMRE.gov.*

SUPPLEMENTARY INFORMATION:

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, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. On the basis of these criteria, the Secretary of

the Interior conditionally approved the North Dakota program effective 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 934.12, 934.13, 934.15, 943.16, and 934.30.

II. Submission of the Amendment

By letter dated May 19, 2016 (Administrative Record No. ND–PP–01), North Dakota sent OSMRE an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota sent the amendment at its own initiative to include numerous rule changes to North Dakota Administrative Code (NDAC) Title 69 Article 5.2 related to *Surface Coal Mining And Reclamation Operations* based on statutory changes to the North Dakota Century Code (NDCC) Chapters 38–12.1 (*Exploration Data*), and 38–14.1 (*Surface Mining and Reclamation Operations*), and 38–18 (*Surface Owners Protection Act*) that were made by Senate Bill No. 2377 (SB 2377) during North Dakota's 2015 Legislation Session. The statutory changes added a definition of ''commercial leonardite'' (oxidized lignite) and excluded commercial leonardite from the statutory definitions of ''coal'' in NDCC sections 38–12.1 and 38–14.1, while ensuring the mining of leonardite remains subject to the same permitting and reclamation requirements as coal. The statutory changes also added the phrases ''and commercial leonardite'' and ''or commercial leonardite'' to many other sections of the reclamation statute as appropriate. Similarly, the proposed administrative rule changes primarily consist of adding the phrases ''and commercial leonardite'' and ''or commercial leonardite'' immediately after the word ''coal'' when it is not part of a definition or other phrase that does not otherwise include ''commercial leonardite.''

We announced receipt of the proposed amendment in the March 31, 2017, **Federal Register** (82 FR 16009). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment (Administrative Record Document ID No. OSM–2016–0009–0001). We did not hold a public hearing or meeting, as neither were requested. The public comment period ended on May 1, 2017. OSMRE did not receive any comments.

III. OSMRE's Findings

The 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 under SMCRA as described below.

A. History and Purpose of North Dakota's Amendment

''Leonardite is a coal-like substance, similar in structure and composition to lignitic coal and believed to be derived from lignitic coal by the process of natural oxidation. The higher oxygen content and less compact structure of leonardite, compared with lignite, make it undesirable as a fuel but indicate that it has potential as a source for chemicals and for other nonfuel uses'' (Fowkes, W.W., Frost, C.M., ''Leonardite: A Lignite Byproduct.'' Bureau of Mines, Report of Investigations, 5611, 1960, p. 2). It is also characterized as an oxidized lignite, a slack lignite or lignite waste. The value of leonardite is its content of greater than 8 humic acid. It is used in agriculture as a soil amendment and fertilizer, in the filtration of organics and metals from waste water, in the oil drilling industry as a thinner or buffer for drilling mud, and as a green sands additive for foundry casing.

In 1982, OSMRE issued a decision that leonardite is not ''coal'' under SMCRA, as defined in 30 CFR 700.5, and thus would not be subject to regulation or oversight under SMCRA when mined as a separate and distinct mineral deposit. OSMRE also explained that leonardite would not be regulated under SMCRA if the extraction of lignite is incidental to the extraction of leonardite or other minerals and the lignite extracted does not exceed 16⅔ per centum of the minerals removed for purposes of commercial use or sale, under the provisions of section 701(28)(A) of SMCRA (30 U.S.C. 1291). *See* December 14, 1982, letter from OSMRE to the North Dakota Public Service Commission (Administrative Record No. ND–Q–17). OSMRE took the position that, for SMCRA purposes, leonardite is considered to be an industrial mineral occurring in or near lignite deposits. As long as leonardite is not produced in conjunction with a lignite mining operation and therefore mined as a separate and distinct mineral deposit, it will not be within the purview of SMCRA. OSMRE's position was based upon a technical determination that the material in question, although related to lignite, does not meet the definition of coal, and is similar to the production of montan wax associated with lignite in California. Moreover, 30 CFR part 702 provides an exemption for coal extraction incidental to the extraction of other minerals. The definition of ''other minerals'' in 30 CFR 702.5(e) expressly provides that the term ''means any commercially valuable substance mined for its mineral value, excluding coal, topsoil, waste and fill material.'' The legislative history of the incidental extraction exemption in section 701(28)(A) of SMCRA (30 U.S.C. 1291) indicates that Congress intended for the exemption ''to exclude operations, such as limestone quarries, where coal is found but is not the mineral being sought.'' SEN. REPT. NO. 28, 94th Cong., 1st Sess. 98 (1975). OSMRE reaffirmed its position that leonardite is not coal, for purposes of SMCRA, in a July 22, 1994, **Federal Register** document (59 FR 37423, 37426).

North Dakota considers leonardite to be an industrial mineral or non-coal resource; however, in its discretion, North Dakota has been permitting and regulating leonardite in much the same way as combustible coal is permitted and regulated. North Dakota has historically regulated leonardite mining in a lawful and environmentally responsible manner without a requirement under SMCRA, but in a manner similar to the way it would be regulated under SMCRA if it were not exempt as a separate and distinct mineral deposit.

While OSMRE does not regulate the mining of leonardite when it occurs as a separate and distinct mineral deposit, North Dakota's statutory definition of ''coal'' was originally written in a manner to specifically include it in all instances. However, due to a recent issue with the mining and leasing of leonardite as a separate and distinct deposit, North Dakota's Legislature approved statutory changes to exclude commercial leonardite from its definitions of ''coal'' in NDCC sections 38–12.1 and 38–14.1, while ensuring that the mining of leonardite remains subject to the same permitting and reclamation requirements as coal. In addition, the North Dakota legislature also developed a new definition of ''commercial leonardite.'' The statutory and regulatory changes were made to ensure that none of the requirements in North Dakota's approved coal regulatory program are otherwise changed. It is also important to note that the narrative accompanying North Dakota's proposed amendment states that SB 2377 includes similar changes to other sections of NDCC that are not part of the State coal regulatory program. North Dakota

subsequently clarified that the proposed changes in Chapters 38.11.2 (*Subsurface Exploration Damages*), 38–15 (*Resolution of Conflicts in Subsurface Mineral Production*), and 57–61 (*Coal Severance Tax*) of the NDCC did not require OSMRE approval.

B. Minor Revisions to North Dakota's Rules and Statutes

North Dakota proposed minor grammatical, codification, and statutory citation cross-reference changes to the following previously approved rules and statutes due to renumbering. No substantive changes to the text of these regulations were proposed. Because the proposed revisions to these previously approved rules are minor in nature and do not change any fundamental requirements or weaken North Dakota's authority to enforce them, we are approving the changes and find that they are no less effective than the Federal regulations at Title 30 (*Mineral Resources*), Chapter VII (Office of Surface Mining Reclamation and Enforcement, Department of the Interior), Parts 700 through 887. The following specific, minor revisions were made: (1) NDAC 69–05.2–01–02. Definitions. Paragraph 120. ''Valid Existing Rights'' c. Roads; statutory citation cross-reference change due to renumbering in the NDCC; (2) NDAC 69–05.2–08–10. Permit Applications—Permit area—Soil resources information; statutory citation cross-reference change due to renumbering in the NDCC; (3) NDCC Section 38–14.1–24. Environmental Protection Performance Standards; Subsection 5; deletion of statutory citation cross-reference change due to renumbering; and (4) NDCC 38–14.1–25. Prohibited Mining Practices; Subsections 2. and 3; minor grammatical changes.

C. Revisions to North Dakota's Rules and Statutes That Have No Corresponding Provisions to the Federal Regulations and/or SMCRA

North Dakota proposed numerous revisions to its statutes and regulations for which there are no Federal counterpart provisions. The proposed changes resulted from the approval of SB 2377 during North Dakota's 2015 Legislative Session that revised the definition of ''coal'' in the NDCC and added a new definition of ''commercial leonardite.'' As previously discussed in this final rule, leonardite is an oxidized form of lignite that is non-combustible, and it is not regulated under SMCRA as ''coal'' by OSMRE, as long as it is not produced as part of a lignite mining operation—it must be mined as a separate and distinct mineral deposit. North Dakota indicated in an email correspondence accompanying the amendment's informal submission that while it has not considered leonardite to be coal, it has traditionally regulated leonardite mining in much the same manner as surface coal mining and will continue, at its discretion, to do so based on the changes made by SB 2377. The statutory revisions also resulted in a number of related changes to North Dakota's rules in the NDAC, and primarily consist of adding the phrases ''and commercial leonardite'' and ''or commercial leonardite'' after the word ''coal.''

1. NDCC Sections 38–12.1–03.1 (Exploration Data); and 38–14.1–02.3 (Surface Mining and Reclamation Operations); Revised Definitions of the Term ''Coal''

As a result of SB 2377, North Dakota proposes to exclude ''commercial leonardite'' from the statutory definition of ''coal'' in Section 38–12.1–03.1 of the NDCC as it pertains to *Exploration Data.* The revised definition reads as follows: '' '[c]oal' means a dark-colored, compact, and earthy organic rock with less than forty percent inorganic components, based on dry material, formed by the accumulation and decomposition of plant material. The term includes consolidated lignitic coal in both oxidized and nonoxidized forms, whether or not the material is enriched in radioactive materials. The term does not include commercial leonardite.''

Similarly, North Dakota proposes to exclude ''commercial leonardite'' from the statutory definition of ''coal'' in section 38–14.1–02.3 of the NDCC about *Surface Mining and Reclamation Operations.* The revised definition reads as follows: '' '[c]oal' means a dark-colored, compact, and earthy organic rock with less than forty percent inorganic components, based on dry material, formed by the accumulation and decomposition of plant material. The term includes consolidated lignitic coal in both oxidized and nonoxidized forms, having less than eight thousand three hundred British thermal units per pound [453.59 grams], moist and mineral matter free, whether or not the material is enriched in radioactive materials. The term does not include commercial leonardite.''

The narrative accompanying North Dakota's proposed amendment explained that while OSMRE does not regulate the mining of leonardite when it occurs as a separate and distinct mineral deposit, the North Dakota statutory definition of ''coal'' was originally written in a manner to specifically include leonardite in all instances. However, due to a recent issue with the mining and leasing of leonardite as a separate and distinct deposit, the North Dakota Legislature approved statutory changes to exclude commercial leonardite from the definition of coal in the NDCC, while ensuring that the mining of leonardite remains subject to the same, but unique, set of permitting and reclamation requirements as coal.

North Dakota's revised definitions provide a distinction between the terms and explicitly clarifies that ''coal'' does not include ''commercial leonardite.'' OSMRE does not have any corresponding provisions specifically about ''commercial leonardite.'' North Dakota's revised definitions of ''coal'' in its reclamation statute is, therefore, more specific than, but consistent with the definitions of ''lignite coal'' at section 701(30) of SMCRA, and ''coal'' at 30 CFR 700.5 of the Federal regulations. The lack of a Federal counterpart does not render North Dakota's proposed amendments less stringent than SMCRA or less effective than OSMRE's regulations. In addition, we also find that the underlying rationale North Dakota provided for justifying a modification of North Dakota's definitions is reasonable for purposes of SMCRA and is consistent with OSMRE's policy about leonardite (see section III.A. above). Accordingly, we are approving the amended definitions. We nevertheless note that OSMRE's approval of North Dakota's amendments for purposes of SMCRA may not be viewed as waiving any property interest the United States may have in leonardite deposits that may be part of the federal coal estate in North Dakota.

2. NDCC Sections 38–12.1–03.3 (Exploration Data) and 38–14.1–02.4 (Surface Mining and Reclamation Operations); Newly-Proposed Definition of ''Commercial Leonardite''

As a result of SB 2377, North Dakota proposes a new definition of ''commercial leonardite'' in both Sections 38–12.1–03.3 and 38–14.1–02.4 of the NDCC. Each definition reads as follows:

> ''Commercial leonardite'' means a dark-colored, soft, earthy rock formed from the oxidation of lignite coal, and is produced from a mine that has as its only function for supply for purposes other than gasification or combustion to generate electricity.

The narrative accompanying North Dakota's proposed amendment explained that while OSMRE does not regulate the mining of leonardite when it occurs as a separate and distinct mineral deposit, the North Dakota

statutory definition of ''coal'' was originally written in a manner to specifically include leonardite in all instances. However, due to a recent issue with the mining and leasing of leonardite as a separate and distinct deposit, the North Dakota Legislature approved statutory changes to exclude commercial leonardite from the definition of coal in the NDCC, while ensuring that the mining of leonardite remains subject to the same permitting and reclamation requirements as coal. Moreover, the proposed definition clarifies that ''commercial leonardite'' will be mined and used solely for purposes other than gasification or combustion to generate electricity.

North Dakota's newly proposed definitions of ''commercial leonardite'' are reasonable for purposes of SMCRA and are consistent with OSMRE's 1982 determination that leonardite does not comport with the definition of coal under SMCRA and fall within the parameters of section 701(28)(A) of SMCRA and 30 CFR part 702. *See* Section III.A. above. OSMRE does not have any corresponding provisions about ''commercial leonardite,'' and the lack of a Federal counterpart definition does not render North Dakota's amended program any less stringent than SMCRA or less effective than OSMRE's regulations. Instead, North Dakota's definition merely provides specificity beyond that contained in SMCRA and the Federal regulations. Moreover, North Dakota's explanation justifying the addition of a ''commercial leonardite'' definition is reasonable for purposes of SMCRA, and we approve the amended definition. We nevertheless note that OSMRE's approval of North Dakota's amendments for purposes of SMCRA may not be viewed as waiving any property interest the United States may have in leonardite deposits that may be part of the federal coal estate in North Dakota.

3. North Dakota's Proposed Inclusion of the Phrases ''and Commercial Leonardite'' and ''or Commercial Leonardite'' Throughout Its Reclamation Law and Rules

Related to its newly proposed definition of ''commercial leonardite'' in SB 2377, North Dakota also proposes to add the phrases ''and commercial leonardite'' and ''or commercial leonardite'' to many provisions of the reclamation statute and immediately after the word ''coal'' in the rules when it is not part of a definition or other phrase that does not otherwise include ''commercial leonardite.''

The narrative accompanying North Dakota's proposed amendment explained that while OSMRE does not regulate the mining of leonardite when it occurs as a separate and distinct mineral deposit, the North Dakota statutory definition of ''coal'' was originally written in a manner to specifically include leonardite in all instances. However, due to a recent issue with the mining and leasing of leonardite as a separate and distinct deposit, the North Dakota Legislature approved statutory changes to exclude commercial leonardite from the definition of coal in the NDCC, while ensuring that the mining of leonardite remains subject to the same permitting and reclamation requirements as coal.

North Dakota's desire to differentiate between the terms ''coal'' and ''commercial leonardite'' in its reclamation law and related rules is reasonable for purposes of SMCRA and is consistent with OSMRE's 1994 determination that leonardite is not ''coal'' as defined in 30 CFR 700.5, as enumerated in 59 FR 37423 (July 22, 1994), the policy Memorandum of November 3, 1982, and OSMRE correspondence on December 14, 1982. *See* Section III.A. above. As such, commercial leonardite would not be subject to regulation or oversight under SMCRA when mined as a separate and distinct mineral deposit. Thus, North Dakota's proposed addition of the phrases ''and commercial leonardite'' and ''or commercial leonardite'' to its previously approved statutory provisions and regulations identifies a necessary distinction of the terms and provides specificity beyond that contained in SMCRA and the Federal regulations. OSMRE also finds that the underlying rationale North Dakota provided for justifying the addition of these phrases is reasonable for purposes of SMCRA and the lack of Federal counterpart phrases does not render the amendments less stringent than SMCRA or less effective than the Federal regulations. Accordingly, for purposes of SMCRA, we are approving North Dakota's proposed statute and rule changes that add the phrases ''and commercial leonardite'' and ''or commercial leonardite'' to several provisions of the reclamation law and immediately after the word ''coal'' in the statute and regulations when it is not part of a definition or other phrase that doesn't otherwise include ''commercial leonardite.''

4. NDCC Section 38–14.1–02.23; Revised Definition of ''Pit''

As a result of SB 2377, North Dakota proposes to revise its existing definition of ''Pit'' in section 38–14.1–02.23 of the NDCC to read as follows: ''Pit'' means a tract of land, from which overburden, coal, or commercial leonardite, or any combination of overburden, coal, or commercial leonardite has been or is being removed for the purpose of surface coal mining operations.

North Dakota indicated in an email correspondence accompanying the amendment's informal submission that it has always regulated leonardite mining in the same way as combustible coal, albeit pursuant to a distinct set of statutes and regulations, and will continue to do so based on the changes made by SB 2377. To that end, North Dakota's revised definition of ''Pit'' adds commercial leonardite to the types of material that can be removed for the purposes of surface coal mining operations.

OSMRE does not have any corresponding provisions defining ''pit.'' As such, we find that North Dakota's proposed revisions to its definition of ''pit'' are reasonable for purposes of SMCRA and provide specificity beyond that contained in SMCRA and the Federal regulations, and the lack of a Federal counterpart definition does not render it less stringent than SMCRA nor less effective than OSMRE's implementing regulations. Furthermore, the amendment to the North Dakota programs comports with OSMRE policy on leonardite as enumerated in 59 FR 37423 (July 22, 1994) and the policy Memorandum of November 3, 1982, and OSMRE correspondence on December 14, 1982. See Section III.A. above. Accordingly, we are approving North Dakota's revised definition of ''pit'' with the understanding that any coal that is removed in combination with leonardite will be incidental to the extraction of leonardite, and not exceed 16 ⅔ per centum of the minerals removed for purposes of commercial use or sale under the provisions of Section 701(28)(A) of SMCRA.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, (Administrative Record Document ID No. OSM–2016–0009–0001), but did not receive any.

Federal Agency Comments

On May 26, 2016, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA (30 U.S.C. 1253), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the North Dakota Program (Administrative Record No.

ND–PP–04). We received comments from three Federal Agencies.

The United States Forest Service (USFS) commented in a June 8, 2016, email response (Administrative Record No. ND–PP–06); the Mine Safety and Health Administration (MSHA) commented in a July 15, 2016, Letter (Administrative Record Document ID No. OSM–2016–0009–0004); and the Bureau of Land Management (BLM) commented in a letter dated July 22, 2016 (Administrative Record No. ND–PP–08).

The USFS responded that it did not have any comments on the proposed amendment about commercial leonardite.

MSHA also stated that it had reviewed the proposed changes in the amendment and had no comments.

The BLM responded that it reviewed the proposed changes to N.D. Admin. Code 69–05.2 and commented that the recent State law change does not affect the Federal reserved coal estate in North Dakota. The BLM further stated that North Dakota's reclassification of leonardite does not affect the terms of a Federal coal lease; a valid and binding contract between the United States and the lessee. OSMRE acknowledges these comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i) and (ii), OSMRE is required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that North Dakota proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on May 26, 2016, pursuant to 30 CFR 732.17(h)(11)(i), we requested comments from the EPA on the amendment (Administrative Record No. ND–PP–04). The EPA did not respond to our request.

State Historical 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 May 26, 2016, we requested comments on North Dakota's amendment (Administrative Record No. ND–PP–04). We did not receive comments from the SHPO or ACHP.

V. OSMRE's Decision

Based on the above findings, we are approving North Dakota's amendment that was submitted on May 19, 2016 (Administrative Record No. ND–PP–01).

To implement this decision, we are amending the Federal regulations, at 30 CFR part 934, that codify decisions concerning the North Dakota program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication. Section 503(a) of SMCRA (30 U.S.C. 1253) requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

VI. 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. Other changes implemented through this final rule are administrative in nature and have no takings implications.

Executive Order 12866—Regulatory Planning and Review

Pursuant to Office of Management and Budget (OMB) guidance dated October 12, 1993, the approval of State program amendments are exempted from OMB review under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by Section 3(a) of Executive Order 12988. The Department determined that this **Federal Register** document meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard; and promote simplification and burden reduction. Because Section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** document and to changes to the Federal regulations, if applicable. The review under this Executive Order did not extend to the language of the State regulatory program or to the program amendment that the State of North Dakota drafted.

Executive Order 13132—Federalism

This rule is not a ''[p]olicy that [has] Federalism implications'' as defined by Section 1(a) of Executive Order 13132 because it does not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Instead, this rule approves an amendment to the North Dakota regulatory program submitted and drafted by that State. OSMRE reviewed the submission with fundamental federalism principles in mind as set forth in Sections 2 and 3 of the Executive Order and with the principles of cooperative federalism set forth in SMCRA. *See, e.g.,* 30 U.S.C 1201(f). As such, pursuant to Section 503(a)(1) and (7)(30 U.S.C. 1253(a)(1) and (7)), OSMRE reviewed the program amendment to ensure that it is ''in accordance with'' the requirements of SMCRA and ''consistent with'' the 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 Tribes and have determined that the rule does not have substantial direct effects on one or more Tribes, on the relationship between the Federal Government and Tribes, or on the distribution of power and responsibilities between the Federal Government and Tribes. The basis for this determination is that our decision pertains to the North Dakota regulatory program and does not involve Federal regulations involving Tribes or Tribal lands in any way.

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

Executive Order 13211 of May 18, 2001, 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) *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; 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: April 4, 2019.

David A. Berry,

Regional Director, Western Region.

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
*	*	* * * * *
May 19, 2016 ...	May 9, 2019	NDAC regulation changes to define commercial leonardite (oxidized lignite) and exclusion of commercial leonardite from the statutory definition of coal. NDAC 69–05.2–01–01.1a–d; NDAC 69–05.2–01–02.9–12, 32, 64b(6), 88, 93, 104, 108, 120b(2)(a) and c; NDAC 69–05.2–02–06.1; NDAC 69–05.2–03–01; NDAC 69–05.2–03–02; NDAC 69–05.2–04–01.5.2a(8); NDAC 69–05.2–04–04.2; NDAC 69–05.2–04–07.3a; NDAC 69–05.2–04–09.3; NDAC 69–05.2–05–08.1; NDAC 69–05.2–06–01.1a; NDAC 69–05.2–06–03.2b; NDAC 69–05.2–08–01.2; NDAC 69–05.2–08–02.1l; NDAC 69–05.2–08–04.3b; NDAC 69–05.2–08–05.1 and 2b,c,d,e and g; NDAC 69–05.2–08–06.1d; NDAC 69–05.2–08–10; NDAC 69–05.2–09–01.1, 3, and 5; NDAC 69–05.2–09–02.3, 6, 8, 12, and 14a; NDAC 69–05.2–09–09.1f and g; NDAC 69–05.2–09–18.3b; NDAC 69–05.2–09–19.1; NDAC 69–05.2–10–01.1b4 and 6a; NDAC 69–05.2–11–02.1c; NDAC 69–05.2–13–05; NDAC 69–05.2–13–08.6h; NDAC 69–05.2–13–12.1; NDAC 69–05.2–13–13; NDAC 69–05.2–18–01.13; NDAC 69–05.2–19–02.1; NDAC 69–05.2–19–04.4; NDAC 69–05.2–21–01.2; NDAC 69–05.2–21–03; NDAC 69–05.2–21–04; NDAC 69–05.2–22–07.4i; NDAC 69–05.2–24–01.1a(1); NDAC 69–05.2–24–09.1; NDAC 69–05.2–25–04.2.a; NDAC 69–05.2–26–06.3.c; NDAC 69–05.2–31–01.3; NDCC Sec. 38–12.1–01, Subsections 1–3; NDCC Sec. 38–12.1–02; NDCC Sec. 38–12.1–03, Subsections 1–3, and 7; NDCC Sec. 38–12.1–04, Subsections 1a, 2, and 5; NDCC Sec. 38–12.1–05, Subsections 1 and 3; NDCC Sec. 38–14.1–02, Subsections 3, 4, 10, 11, 13, 23, 28, and 35; NDCC Sec. 38–14.1–05, Subsection 3; NDCC Sec. 38–14.1–13, Subsection 3; NDCC Sec. 38–14.1–14, Subsection 1r(3)–(5), and s; NDCC Sec. 38–14.1–14, Subsection 2c; NDCC Sec. 38–14.1–21, Subsection 3e(2); NDCC Sec. 38–14.1–21, Subsection 4b; NDCC Sec. 38–14.1–24, Subsections 1 and 1.1; NDCC Sec. 38–14.1–24, Subsection 3b(2); NDCC Sec. 38–14.1–24, Subsections 5, 10, and 18; NDCC Sec. 38–14.1–25, Subsections 1–3; NDCC Sec. 38–14.1–27, Subsection 1b(2); NDCC Sec. 38–14.1–37, Subsections 1 a and b, 3, and 4; NDCC Sec. 38–18–05. Subsections 2 and 7; NDCC Sec. 38–18–07, Subsection 2; also all minor grammatical and codification changes.

[FR Doc. 2019–09559 Filed 5–8–19; 8:45 am]
BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2019–0219]

Special Local Regulations; Crystal Pier Outrigger Race, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce special local regulations for the Crystal Pier Outrigger Race on May 11, 2019. These special local regulations are necessary to provide for the safety of the participants, crews, spectators, sponsor vessels of the event and general users of the waterway. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, or anchoring within these regulated areas unless authorized by the Captain of the Port, or his designated representative.

DATES: The regulations in 33 CFR 100.1101 will be enforced for the Crystal Pier Outrigger Race regulated areas from 7 a.m. to 5 p.m. on May 11, 2019.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant Briana Biagas, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7656, email *D11MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce special local regulations in 33 CFR 100.1101 for the Crystal Pier Outrigger Race regulated areas from 7 a.m. to 5 p.m. on May 11, 2019. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for recurring marine events in the San Diego Captain of the Port Zone, § 100.1101, specifies the location of the regulated areas for the Crystal Pier Outrigger Race which encompasses portions of Mission Bay, the Main Entrance Channel, Sail Bay, Fiesta Bay, South Shore Channel, and waters adjacent to Crown Point Beach Park. Under the provisions of 33 CFR 100.1101, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners, Broadcast Notice to Mariners, and local advertising by the event sponsor.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: April 18, 2019.

J.R. Buzzella,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2019–09568 Filed 5–8–19; 8:45 am]
BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2019–0137]

RIN 1625–AA08

Special Local Regulation; Breton Bay, McIntosh Run, Leonardtown, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for certain navigable waters of the Breton Bay and McIntosh Run. This action is necessary to provide for the safety of life on these waters located at Leonardtown, MD, on October 5, 2019, and October 6, 2019, during a high-speed power boat demonstration event. This regulation prohibits persons and vessels from being in the regulated area unless authorized by the Captain of the Port Maryland-National Capital Region or Coast Guard Patrol Commander.

DATES: This rule is effective from 8 a.m. on October 5, 2019, to 6 p.m. on October 6, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2019–0137 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald Houck, U.S. Coast Guard Sector Maryland-National Capital Region; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
PATCOM Coast Guard Patrol Commander
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Southern Maryland Boat Club of Leonardtown, MD, notified the Coast Guard that from 9 a.m. to 5 p.m. on October 5, 2019, and from 9 a.m. to 5 p.m. on October 6, 2019, it will be conducting the Southern Maryland Boat Club Bash on the Bay in Breton Bay and McIntosh Run at Leonardtown, MD. In response, on March 18, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Special Local Regulation; Breton Bay, McIntosh Run, Leonardtown, MD'' (84 FR 9731). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this power boat demonstration event. During the comment period that ended April 17, 2019, we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the Port Maryland-National Capital Region (COTP) has determined that potential hazards associated with this power boat demonstration event will be a safety concern for anyone intending to operate in or near the demonstration area. The purpose of this rule is to protect event participants, spectators, and transiting vessels on specified waters of Breton Bay and McIntosh Run before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published March 18, 2019. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a special local regulation to be enforced from 8 a.m. to 6 p.m. on October 5, 2019, and from 8 a.m. to 6 p.m. on October 6, 2019. The regulated area will cover all navigable waters Breton Bay and McIntosh Run,