

2. Furnish Mining and Minerals, through OSM, findings on compliance with other applicable Federal laws and regulations in a timely manner as set forth by a schedule developed in cooperation with Mining and Minerals.

3. Participate, as arranged, in meetings and field examinations.

#### VI: PREPARATION AND TRANSMITTAL OF THE DECISION DOCUMENT

##### A. Mining and Minerals will:

1. Assist OSM in the preparation of the decision document for the permit application package or application for a permit revision or renewal, unless the work plan and schedule agreed upon provide otherwise. Mining and Minerals will provide OSM with:

a. A recommendation on the proposal;

b. A finding of compliance with the Program as approved by the Secretary and the regulations promulgated thereunder, which will consist of an analysis of critical issues raised during the course of the review and the resolution of those issues; and

c. All other specific written findings required under section 69-25A-14, NMSA 1978.

2. Consider the comments of OSM, MMS and FLMA and other appropriate Federal agencies when assisting in the preparation of the decision document.

##### B. OSM will:

1. Prepare the approved NEPA compliance document.

2. Prepare the decision document with the assistance of Mining and Minerals unless the work plan and schedule agreed upon provide otherwise. The decision document shall contain the following:

a. An analysis of the environmental impacts of the proposal and alternatives to the proposal, prepared in compliance with NEPA, the Council on Environmental Quality regulations and OSM's NEPA compliance handbook;

b. The determinations and recommendations of FLMA;

c. The memorandum of recommendation from the MMS to the Assistant Secretary of the Interior for Energy and Minerals, with regard to MLA requirements;

d. The incorporation of the comments of other agencies specified by the Secretary, as appropriate; and

e. The relevant information submitted by Mining and Minerals as specified by A.1 of this Article.

3. Transmit the decision document to the Secretary.

C. FLMA will: Provide written concurrence on the final decision document to OSM with regard to postmining land use and the adequacy of measures to protect Federal resources not covered by rights granted by any Federal coal lease.

D. MMS will: Provide written concurrence on the final decision document to OSM with regard to its responsibilities.

E. Other agencies will: Provide written concurrence on the final decision document to OSM with regard to their responsibilities.

#### VII: DECISION AND PERMIT ISSUANCE

##### A. The Secretary will:

1. Evaluate the analysis, conclusions, and recommendations in the decision document as necessary to determine whether he approves or disapproves.

2. Inform Mining and Minerals immediately of his decision. Where the Secretary decides not to approve, the reasons for not approving, and recommendations for remedy shall be specified.

##### B. Mining and Minerals will:

1. Issue the permit, revised permit, or permit renewal for surface coal mining and reclamation operations after making a finding of compliance with the approved Program in the manner set forth in this Agreement.

2. Advise the operator, in the permit, of the necessity of obtaining Secretarial approval for those statutory requirements which have not been delegated to the State prior to directly affecting Federal lands and, if necessary, prohibit the operator from directly affecting Federal lands under the permit, revised permit, or permit renewal until after the Secretary's approval of the mining plan has been received.

3. Reserve the right to modify the permit, revised permit or permit renewal to conform with the Secretary's decision if a permit, revised permit, or permit renewal has been issued prior to receipt of the Secretary's decision.

#### VIII: RESOLUTION OF CONFLICT

A. Every effort will be made to resolve errors, omissions and conflicts on data and data analysis at the State and field level.

B. Areas of disagreement between the State and the Department shall be referred to the Governor and the Secretary for resolution.

(Sec. 523(c) of the Surface Mining Control and Reclamation Act of 1977; Pub. L. 95-87; (30 U.S.C. 1273(c)))

[47 FR 56806, Dec. 20, 1982, as amended at 54 FR 20568, May 12, 1989]

### PART 933—NORTH CAROLINA

#### Sec.

933.700 North Carolina Federal program.

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- 933.707 Exemption for coal extraction incident to government-financed highway or other construction.
- 933.761 Areas designated unsuitable for surface coal mining by Act of Congress.
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- 933.785 Requirements for permits for special categories of mining.
- 933.795 Small operator assistance.
- 933.800 General requirements for bonding of surface coal mining and reclamation operations.
- 933.815 Performance standards—coal exploration.
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- 933.819 Special performance standards—auger mining.
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- 933.828 Special performance standards—in situ processing.
- 933.842 Federal inspections.
- 933.843 Federal enforcement.
- 933.845 Civil penalties.
- 933.846 Individual civil penalties.
- 933.955 Certification of blasters.

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

SOURCE: 48 FR 30302, June 30, 1983, unless otherwise noted.

#### § 933.700 North Carolina Federal program.

(a) This part contains all rules that are applicable to surface coal mining operations in North Carolina which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) The rules in this part cross-reference pertinent parts of the permanent program regulations in this chapter. The full text of a rule is in the permanent program rule cited under the relevant section of the North Carolina Federal program.

(c) The rules in this part apply to all surface coal mining operations in North Carolina conducted on non-Federal and non-Indian lands. The rules in Subchapter D of this chapter apply to operations on Federal lands in North Carolina.

(d) The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than ten respondents annually.

(e) The following provisions of North Carolina laws and regulations provide, where applicable, for more stringent environmental control and regulation of some aspects of surface coal mining operations than do the provisions of the Act and the regulations in this chapter. Therefore, pursuant to section 505(b) of the Act, they shall not be construed to be inconsistent with the Act unless in a particular instance the rules in this chapter are found by OSM to establish more stringent environmental controls.

(1) North Carolina General Statute (NCGS) 74-51, concerning conditions under which a mining permit may be granted, authorized the North Carolina Department of Natural Resources and Community Development to deny a permit for a mining operation which will have a significantly adverse effect on the purposes of a publicly owned park, forest, or recreation area and may condition permit approval on a requirement of visual screening, vegetative or otherwise, so as to screen the view of the operation from public highways, public parks, or residential areas where the Department finds such screening to be feasible and desirable,

## §933.701

or determines that such screening measures are either not feasible or not desirable.

(2) North Carolina mining laws and regulations apply to mining operations affecting an area greater than one acre. To the extent that North Carolina mining law and regulations cited in paragraph (f) of this section apply to coal mining operations not regulated by the Surface Mining Control and Reclamation Act, they are not preempted by this Federal program for North Carolina.

(3) North Carolina Dam Safety Law of 1967, North Carolina General Statutes (NCGS) 143-215.23 through 143-215.37.

(4) Geophysical Exploration regulations, Title 15, North Carolina Administrative Code, Subchapter 5C, applies to any coal exploration involving the use of explosives.

(f) The following are North Carolina laws and regulations that generally interfere with the achievement of the purposes and requirements of the Act and are, in accordance with section 504(g) of the Act, preempted and superseded to the extent that they regulate coal exploration or surface coal mining and reclamation operations regulated by the Surface Mining Control and Reclamation Act. Other North Carolina laws may interfere with the achievement of the purposes of goals of the Act in an individual situation, and may be preempted and superseded as they affect a particular coal exploration or surface mining operation by publication of the notice to that effect in the FEDERAL REGISTER.

(1) North Carolina Mining Act of 1971, as amended, NCGS 74-46 through 74-68, except to the extent that the Mining Act is preserved as provided in paragraph (e) of this section.

(2) Title 15, North Carolina Administrative Code, Subchapters 5A, 5B, and 5F Mining and Mineral Resources, except to the extent that those regulations are preserved as provided in paragraph (e) of this section.

(g) The Secretary may grant a limited variance from the performance standards of §§933.815 through 933.828 of this part if the applicant for coal exploration approval or a surface mining permit submitted pursuant to §§933.772

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through 933.785 demonstrates in the application that: (1) Such variance is necessary because of the unique nature of North Carolina's terrain, climate, biological, chemical, or other relevant physical conditions; and (2) the proposed alternative will achieve equal or greater environmental protection than does the performance requirement from which the variance is requested.

[48 FR 30302, June 30, 1983, as amended at 52 FR 13811, Apr. 24, 1987]

### §933.701 General.

Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15 and part 701 of this chapter shall apply to surface coal mining and reclamation operations in North Carolina.

### §933.702 Exemption for coal extraction incidental to the extraction of other minerals.

Part 702 of this chapter, *Exemption for Coal Extraction Incidental to the Extraction of Other Minerals*, shall apply to any person who conducts coal extraction incidental to the extraction of other minerals for purposes of commercial use or sale.

[54 FR 52123, Dec. 20, 1989]

### §933.707 Exemption for coal extraction incidental to government-financed highway or other construction.

Part 707 of this chapter, *Exemption for Coal Extraction Incidental to Government-Financed Highway or Other Construction*, shall apply to surface coal mining and reclamation operations.

### §933.761 Areas designated unsuitable for surface coal mining by Act of Congress.

Part 761 of this chapter, *Areas Designated Unsuited for Coal Mining by Act of Congress*, with the exception of §§761.11(c) and 761.12(f)(1), shall apply to surface coal mining and reclamation operations, beginning one year after the effective date of this program. For the purposes of part 933, the following §§761.11(c) and 761.12(f)(1) shall replace the existing §§761.11(c) and 761.12(f)(1).

(c) On any lands which will adversely affect any publicly owned park, forest, recreation area, or any places included on, or eligible for listing on, the National Register of

Historic Places, unless approved jointly by the regulatory authority and the Federal, State, or local agency with jurisdiction over the park, forest, recreation area, or places;

(f)(1) Where the proposed surface coal mining operation may adversely affect any public park, forest, recreation area, or any places included on, or eligible for listing on, the National Register of Historic Places, the regulatory authority shall transmit to the Federal, State, or local agencies with jurisdiction over, or a statutory or regulatory responsibility for, the park, forest, recreation area, or historic place a copy of the completed permit application containing the following:

(i) A request for that agency's approval or disapproval of the operators;

(ii) A notice to the appropriate agency that it must respond within 30 days from receipt of the request.

**§ 933.762 Criteria for designating areas as unsuitable for surface coal mining operations.**

Part 762 of this chapter, *Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations*, shall apply to surface coal mining and reclamation operations.

**§ 933.764 Process for designating areas unsuitable for surface coal mining operations.**

Part 764 of this chapter, *State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations*, pertaining to petitioning, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall apply to surface coal mining and reclamation operations beginning one year after the effective date of this program.

**§ 933.772 Requirements for coal exploration.**

(a) Part 772 of this chapter, *Requirements for Coal Exploration*, shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office shall make every effort to act on an exploration application within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSMRE shall notify the applicant that the application is being reviewed, but more time is necessary to complete such review, setting forth the

reasons and the additional time that is needed.

[52 FR 13811, Apr. 24, 1987]

**§ 933.773 Requirements for permits and permit processing.**

(a) Part 773 of this chapter, *Requirements for Permits and Permit Processing*, shall apply to any person who applies for a permit for surface coal mining and reclamation operations.

(b) In addition to the requirements of part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the application to the Office.

(2) The Office shall review an application for administrative completeness and acceptability for further review and shall notify the applicant in writing of the findings. The Office may:

(i) Reject a flagrantly deficient application, notifying the applicant of the findings;

(ii) Request additional information required for completeness stating specifically what information must be supplied and negotiate the date by which the information must be submitted; or

(iii) Judge the application administratively complete and acceptable for further review.

(3) Should the applicant not submit the information as required by § 912.773(b)(2)(ii) by the specified date, the office may reject the application. When the applicant submits the required information by the specified date, the Office shall review it and advise the applicant concerning its acceptability.

(4) When the application is judged administratively complete, the applicant shall be advised by the Office to file the public notice required by § 773.6 of this chapter.

(5) A representative of the Office shall visit the proposed permit area to determine whether the operation and reclamation plans are consistent with actual site conditions. The applicant will be notified in advance of the time of the visit. At the time of the visit, the applicant shall have the locations of the proposed permit boundaries, topsoil storage areas, sediment control structures, roads, and other significant

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features contained in the application marked by flags.

(c) In addition to the information required by subchapter G of this chapter, the Office may require an applicant to submit supplementary information to ensure compliance with applicable Federal laws and regulations other than the Act.

(d) The issuance of permits shall be coordinated, to the extent practicable, with the issuance of the following permits, leases and/or certificates required by the State of North Carolina; Water discharge permit (NCGS 143-215.1); water use permits in capacity use area (NCGS 143-215.5); an approval of dam construction (NCGS 143-215.108), an air pollution control permit (NCGS 143-215.26, Title 15, North Carolina Administrative Code, Subchapter 2K); air and water quality reporting systems (NCGS 143-215.63—143-215.69); a geophysical exploration permit (Title 15, North Carolina Administrative Code, Subchapter 5C); a development permit for operations in an area of environmental concern designated pursuant to the Coastal Area Management Act (NCGS 113A-100—113A-128); a dredging or filing permit issued by the Department of Natural Resources and Community Development (NCGS 113-229); a permit for dumping of toxic substances (NCGS 14-284.2); compliance with any applicable land use regulations adopted in a soil conservation district (NCGS 139-9); and compliance with any county ordinance regarding explosives (NCGS 153A-128).

(e) No person shall be granted a permit to conduct exploration which results in the removal of more than 250 tons of coal or shall conduct surface coal mining unless that person has acquired all required permits, leases, and/or certificates listed in paragraph (d) of this section.

(f) The Secretary shall provide to the North Carolina Department of Natural Resources and Community Development a copy of each decision to grant or deny a permit application.

[52 FR 13811, Apr. 24, 1987, as amended at 65 FR 79672, Dec. 19, 2000]

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**§ 933.774 Revision; renewal; and transfer, assignment, or sale of permit rights.**

(a) Part 774 of this chapter, *Revision; Renewal; and Transfer, Assignment, or Sale of Permit Rights*, shall apply to any such actions involving surface coal mining and reclamation operations permits.

(b) Any revision to the approved permit will be subject to review and approval by OSMRE.

(1) Significant revisions shall be processed as if they are new applications in accordance with the public notice and hearing provisions of §§ 773.6, 773.19(b) (1) and (2), and 778.21 and of part 775.

(2) OSMRE shall make every effort to approve or disapprove an application for permit revision within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time needed, OSMRE shall notify the applicant that the application is being reviewed, but that more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

(c) In addition to the requirements of part 774 of this chapter, any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Office within thirty days of either the publication of the newspaper advertisement required by § 774.17(b)(2) of this chapter or receipt of an administratively complete application, whichever is later.

[52 FR 13811, Apr. 24, 1987, 1995, as amended at 65 FR 79672, Dec. 19, 2000]

**§ 933.775 Administrative and judicial review of decisions.**

Part 775 of his chapter, *Administrative and Judicial Review of Decisions*, shall apply to all decisions on permits.

[52 FR 13812, Apr. 24, 1987]

## Surface Mining Reclamation and Enforcement, Interior

## § 933.785

### **§ 933.777 General content requirements for permit applications.**

Part 777 of this chapter, *General Content Requirements for Permit Applications*, shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

[52 FR 13812, Apr. 24, 1987]

### **§ 933.778 Permit applications—minimum requirements for legal, financial, compliance, and related information.**

Part 778 of this chapter, *Permit Applications—Minimum Requirements for Legal, Financial, Compliance and Related Information*, shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

[52 FR 13812, Apr. 24, 1987]

### **§ 933.779 Surface mining permit applications—minimum requirements for information on environmental resources.**

Part 779 of this chapter, *Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources*, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

### **§ 933.780 Surface mining permit applications—minimum requirements for reclamation and operation plan.**

Part 780 of this chapter, *Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan*, shall apply to any person who makes application to conduct surface coal mining and reclamation operations, except that for the purposes of part 933, the paragraph in § 780.31 shall be replaced by the following two paragraphs:

(a) For any public parks, forest, or recreation areas, or historic places that may be adversely affected by the proposed operations, each plan shall describe the measures to be used to minimize or prevent these impacts and to obtain approval of the regulatory authority and other agencies as required in 30 CFR 761.12(f).

(b) Each application for an operation which will be visible from any public park, public

highway, or residential area shall include measures to be taken to screen the operation from the view of public parks, public highways and residential areas, or shall set forth the reasons why such screening measures are either not feasible or not desirable.

### **§ 933.783 Underground mining permit applications—minimum requirements for information on environmental resources.**

Part 783 of this chapter, *Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources*, shall apply to any person who submits an application to conduct underground coal mining operations.

### **§ 933.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.**

Part 784 of this chapter, *Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan*, shall apply to any person who makes application to conduct underground coal mining except that for the purposes of part 933, the paragraph in § 784.17 shall be replaced by the following two paragraphs:

(a) For any public parks, forest, or recreation areas, or historic places that may be adversely affected by the proposed operation, each plan shall describe the measures to be used to minimize or prevent these impacts and to obtain approval of the regulatory authority and other agencies as required in 30 CFR 761.12(f).

(b) Each application for an operation which will be visible from any public park, public highway, or residential area shall include measures to be taken to screen the operation from the view of public parks, public highways and residential areas, or shall set forth the reasons why such screening measures are either not feasible or not desirable.

### **§ 933.785 Requirements for permits for special categories of mining.**

Part 785 of this chapter, *Requirements for Permits for Special Categories of Mining*, shall apply to each person who makes application for a permit to conduct certain categories of surface coal mining and reclamation operations as specified therein.

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### § 933.795 Small operator assistance.

Part 795 of this chapter, *Small Operator Assistance*, shall apply to any person making application for assistance under the small operator assistance program.

### § 933.800 General requirements for bonding of surface coal mining and reclamation operations.

Part 800 of this chapter, *General Requirements for Bonding of Surface Coal Mining and Reclamation Operations Under Regulatory Programs*, shall apply to all surface coal mining and reclamation operations.

### § 933.815 Performance standards—coal exploration.

Part 815 of this chapter, *Permanent Program Performance Standards—Coal Exploration*, shall apply to any person conducting coal exploration operations.

### § 933.816 Performance standards—surface mining activities.

Part 816 of this chapter, *Permanent Program Performance Standards—Surface Mining Activities*, shall apply to any person who conducts surface coal mining and reclamation operations.

### § 933.817 Performance standards—underground mining activities.

Part 817 of this chapter, *Permanent Program Performance Standards—Underground Mining Activities*, shall apply to any person who conducts underground coal mining operations.

### § 933.819 Special performance standards—auger mining.

Part 819 of this chapter, *Special Permanent Program Performance Standards—Auger Mining*, shall apply to any person who conducts surface coal mining operations which include auger mining.

### § 933.823 Special performance standards—operations on prime farmland.

Part 823 of this chapter, *Special Permanent Program Performance Standards—Operations on Prime Farmland*, shall apply to any person who conducts surface coal mining and reclamation operations on prime farmlands.

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### § 933.824 Special performance standards—mountaintop removal.

Part 824 of this chapter, *Special Permanent Program Performance Standards—Mountaintop Removal*, shall apply to any person who conducts surface coal mining operations constituting mountaintop removal mining.

### § 933.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

Part 827 of this chapter, *Special Permanent Program Performance Standards—Coal Processing Plants and Support Facilities Not Located at or Near the Minesite or Not Within the Permit Area for a Mine*, shall apply to any person who conducts surface coal mining and reclamation operations which include the operation of coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

### § 933.828 Special performance standards—in situ processing.

Part 828 of this chapter, *Special Permanent Program Performance Standards—In Situ Processing*, shall apply to any person who conducts in situ processing activities.

### § 933.842 Federal inspections.

(a) Part 842 of this chapter, *Federal Inspections*, shall apply to all exploration and surface coal mining and reclamation operations.

(b) OSM will furnish a copy of any inspection report written pursuant to this part to the North Carolina Department of Natural Resources and Community Development upon request.

### § 933.843 Federal enforcement.

(a) Part 843 of this chapter, *Federal Enforcement*, shall when enforcement action is required for violations on surface coal mining and reclamation operations.

(b) OSM will furnish a copy of each enforcement action and order to show cause issued pursuant to this part to the North Carolina Department of Natural Resources and Community Development upon request.

## Surface Mining Reclamation and Enforcement, Interior

## § 934.13

### § 933.845 Civil penalties.

Part 845 of this chapter, Civil Penalties, shall apply when civil penalties are assessed for violations on surface coal mining and reclamation operations.

### § 933.846 Individual civil penalties.

Part 846 of this chapter, *Individual Civil Penalties*, shall apply to the assessment of individual civil penalties under section 518(f) of the Act.

[53 FR 3676, Feb. 8, 1988]

### § 933.955 Certification of blasters.

Part 955 of this chapter, *Certification of Blasters in Federal Program States and on Indian Lands*, shall apply to the training, examination and certification of blasters for surface coal mining and reclamation operations.

[51 FR 19462, May 29, 1986]

## PART 934—NORTH DAKOTA

Sec.

934.1 Scope.

934.10 State program approval.

934.12 State program amendments disapproved.

934.13 State program provisions set aside.

934.15 Approval of North Dakota regulatory program amendments.

934.16 Required program amendments.

934.20 Approval of North Dakota abandoned mine plan.

934.25 Approval of North Dakota abandoned mine land reclamation plan amendments.

934.30 State-Federal Cooperative Agreement.

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

SOURCE: 45 FR 82246, Dec. 15, 1980, unless otherwise noted.

### § 934.1 Scope.

This part contains all rules applicable only within North Dakota that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

### § 934.10 State program approval.

The North Dakota State Program, as submitted on February 29, 1980, and amended and clarified on June 12, 1980 and September 9, 1980, is conditionally approved, effective December 15, 1980.

Beginning on that date, PSC shall be deemed the regulatory authority in North Dakota for all surface coal mining and reclamation operations and for all exploration operations where more than 250 tons of coal are removed on non-Federal and non-Indian lands and the North Dakota Geological Survey shall be deemed the regulatory authority in North Dakota for all exploration operations where less than 250 tons of coal are removed on non-Federal and non-Indian lands. Only surface mining and reclamation operations on non-Federal and non-Indian lands shall be subject to the provisions of the North Dakota permanent regulatory program. Copies of the approved program, together with copies of the letter of the Public Service Commission agreeing to the conditions in § 934.11, are available at:

(a) North Dakota Public Service Commission, Reclamation Division; State Capitol Building; Bismarck, ND 58505-0165; Telephone: (701) 224-4096.

(b) Office of Surface Mining, 100 East "B" Street, Casper, Wyoming 82601-1918, telephone: (307) 261-5824.

[45 FR 82246, Dec. 15, 1980, as amended at 57 FR 826, Jan 9, 1992; 57 FR 37706, Aug. 20, 1992]

### § 934.12 State program amendments disapproved.

The following provision of an amendment to the North Dakota permanent regulatory program, as submitted to OSMRE on February 10, 1987, and modified on August 18, 1987, and December 14, 1987, is hereby disapproved: Paragraph (c)(4) of the North Dakota Administrative Code, Article 69-05.2-12-05.1, which would have established separate financial criteria for self-bonding by rural electric cooperatives.

[53 FR 2840, Feb. 2, 1988. Redesignated at 55 FR 1819, Jan. 19, 1990]

### § 934.13 State program provisions set aside.

North Dakota regulation NDAC 69-05.2-27-01 is inconsistent with Federal provisions for permitting and bonding of research projects and is set aside under the provisions of section 505(b) of the Surface Mining Control and Reclamation Act of 1977.