



Public Service Commission

State of North Dakota

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November 12, 2009

Mr. Allen D. Klein
Western Regional Coordinating Center
Office of Surface Mining
1999 Broadway, Suite 3320
Denver, CO 80202-3050

Dear Mr. Klein:

RE: North Dakota State Program Amendment XXXVIII

The Public Service Commission is submitting State Program Amendment XXXVIII on behalf of the State of North Dakota in order to modify our approved coal regulatory program. The Amendment is submitted in accordance with provisions in the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) and 30 CFR Chapter VII.

State Program Amendment XXXVIII contains rule and statutory changes that allow the revegetation responsibility period to be reduced from ten years to five years for eligible lands that are re-mined. As a result of these changes, lands previously disturbed by coal mining activities (prior to January 1, 1970) will be eligible for the shortened five-year responsibility period if they are re-mined or otherwise re-disturbed by post-1979 coal mining operations. We believe these changes are as effective as the counterpart federal provisions.

The amendment contains a narrative, the amendment to North Dakota Century Code Chapter 38-14.1, the proposed rules changes to North Dakota Administrative Code Article 69-05.2, a side-by-side comparison of the revised State provisions to the counterpart federal provisions, and a copy of the Attorney General's opinion on the legality of the rule changes.

Please direct any questions you or your staff may have to the Commission's Reclamation Division.

Sincerely,

Tony Clark
Commissioner

Kevin Cramer
Chairman

Brian P. Kalk
Commissioner