



Public Service Commission

State of North Dakota

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May 18, 2016

Mr. David Berry
Western Regional Coordinating Center
Office of Surface Mining
1999 Broadway, Suite 3320
Denver, CO 80202-66667

Dear Mr. Berry:

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

State Program Amendment XLI contains numerous rule changes to North Dakota Administrative Code (NDAC) Article 69-5.2 for surface coal mining and reclamation operations and reclamation law changes that were made by Senate Bill No. 2377 during North Dakota's 2015 Legislation Session. The law changes added a definition of "commercial leonardite" and excluded oxidized lignite (leonardite) from the statutory definition of "coal". The law changes also added the phrase "or commercial leonardite" to many other sections of the reclamation law. Similarly, the proposed rule changes primarily consist of adding the phrase "or commercial leonardite" immediately after the word "coal" when it is not part of a definition or other phrase that doesn't otherwise include "commercial leonardite". No new or additional reclamation requirements were proposed by this rulemaking. However, two cross-references to statutory definitions had to be changed in the rules due to definition renumbering in the reclamation law.

The amendment contains a narrative, the proposed changes North Dakota Administrative Code Article 69-05.2, the reclamation law changes made by Senate Bill 2377, and a copy of the Attorney General's opinion on the legality of the rule changes. No side-by-side comparisons of the revised state law and rules to the counterpart federal law and rules were prepared for this program amendment due to the limited nature of these changes.

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

Sincerely,


Randy Christmann
Commissioner


Julie Fedorchak
Chairman


Brian P. Kalk
Commissioner

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Letter regarding State Program Amendment XLI for
modification to coal regulatory program