



Public Service Commission

State of North Dakota

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November 30, 2022

Mr. David Berry, Regional Director
Office of Surface Mining - Western Region
PO Box 25065
One Denver Federal Center #41
Lakewood, CO 80225-0065
dberry@osmre.gov

Dear Mr. Berry:

The Public Service Commission is submitting State Program Amendment XLIII (43) 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 XLIII contains amendments to North Dakota Century Code 38-14.1 that were made by House Bill No. 1061 during the 2021 Legislative Session. Amendment XLIII also includes law changes to North Dakota Century Code Chapter 38-14.1 and rule changes to North Dakota Administrative Code Article 69-5.2 as a result of Senate Bill No. 2327 from North Dakota's 2017 Legislative Session and House Bill No. 1353 from North Dakota's 2021 Legislation Session.

House Bill No. 1061 was submitted at the request of the Public Service Commission during the 2021 Legislative Session and amended two sections of North Dakota's Surface Mining and Reclamation Law. The first amendment changed Subsection 1 of Section 38-14.1-19 to increase the time for scheduling an informal conference on a permit, significant permit revision, or permit renewal application from 30 days to 45 days. The second amendment changed Subsection 3 of Section 38-14.1-22 and changes the time that a mining company must apply for permit renewal from 120 days prior to permit expiration to 180 days prior to permit expiration. A side-by-side comparison of the state rules to the counterpart federal rules is included in this program amendment package. No rule changes to North Dakota Administrative Code Article 69-5.2 were required for House Bill No. 1061.

Senate Bill No. 2327 created the North Dakota Department of Environmental Quality and transferred the duties and responsibilities of the North Dakota Department of Health relating to environmental quality to the Department of Environmental Quality. House Bill No. 1353 established the North Dakota Department of Water Resources, and the powers and duties of the Department of Water Resources and the state engineer. These two bills basically shifted environmental regulation responsibilities of the Department of Health to the newly created Department of Environmental Quality, changed the name of the State Water Commission to the Department of Water Resources, and changed some of the duties of the state engineer to the Department of Water Resources. As a result of these two bills, references to these agencies in

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North Dakota's Surface Mining and Reclamation laws and rules must be updated to the Department of Environmental Quality and the Department of Water Resources. A side-by-side comparison of the state rules to the counterpart federal rules was not prepared due to the limited nature of the changes.

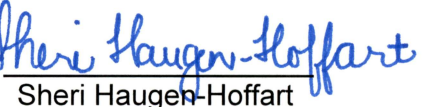
North Dakota State Program Amendment No. XLIII includes a narrative, changes to North Dakota Century Code Chapter 38-14.1 resulting from House Bill No. 1061, a side-by-side comparison of the state rules to the counterpart federal rules for House Bill No. 1061, changes to North Dakota Century Chapter Code 38-14.1 resulting from Senate Bill No. 2327 and House Bill No. 1353, proposed rule changes to North Dakota Administrative Code Article 69-5.2 resulting from Senate Bill No. 2327 and House Bill No. 1353, 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,


Randy Christmann
Commissioner


Julie Fedorchak
Chair


Sheri Haugen-Hoffart
Commissioner