DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 256

[Docket ID: MMS–2007–OMM–0064]

RIN 1010–AD44

Bonus or Royalty Credits for Relinquishing Certain Leases Offshore Florida

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This final rule amends regulations for oil and gas leases on the Outer Continental Shelf to implement a mandate in the Gulf of Mexico Energy Security Act of 2006. These amendments (1) provide a credit to lessees who relinquish certain eligible leases in the Gulf of Mexico; (2) define eligible leases as those within 125 miles of the Florida coast in the Eastern Planning Area, and certain leases within 100 miles of the Florida coast in the Central Planning Area; and (3) allow lessees to use the credits in lieu of monetary payment for either a lease bonus bid or royalty due on oil and gas production from most other leases in the Gulf of Mexico, or to transfer the credits to other Gulf of Mexico lessees for their use.

DATES: *Effective Date:* This final rule becomes effective on October 14, 2008.

FOR FURTHER INFORMATION CONTACT: Marshall Rose, Chief, Economics Division, at (703) 787–1536.

SUPPLEMENTARY INFORMATION:

Background and Summary of the Rule

On February 1, 2008, MMS published a proposed rule in the **Federal Register** (73 FR 6073) to implement section 104(c) of the Gulf of Mexico Energy Security Act of 2006 (GOMESA), Public Law 109–432. Section 104(c) of that statute authorizes the Secretary of the Interior (Secretary) to issue a bonus or royalty credit for the exchange of certain leases located offshore of the State of Florida. The statute defines leases eligible for the credit as those in existence on the enactment date of the GOMESA and located both within specified Outer Continental Shelf (OCS) planning areas and distances from the Florida coastline. The statute sets the size of the credit as equal to the bonus and rental paid for the relinquished eligible lease, and limits its use to payments by lessees of bonuses and royalties for leases in the Gulf of Mexico (GOM) not subject to revenue sharing under section 8(g) of the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1337(g)). Finally, the statute mandates creation of a regulatory process for notifying the Secretary of a lessee's decision to exchange a lease for a credit, issuing the credit, allocating the credit among multiple lease owners, and transferring the credit to other parties.

The MMS received 2 responses during the 60-day comment period on this rule, 2 comments from ExxonMobil on March 20, 2008, and 2 comments from Chevron on March 31, 2008. Our reply to these four comments results in one change in § 256.92(a) from the proposed rule. In addition, we changed the wording in the title to this subpart and in §§ 256.94(c) and 256.95(b) and (c)(5) for clarity, but the title and these sections retain the same meaning as they had in the proposed rule.

Exxon asked for the following two changes in the rule:

1. On a lease where MMS elects to take royalty-in-kind (RIK), the lessee should be allowed to notify MMS of its intent to use credits for royalty, in which case the RIK election is postponed until credits are completed. Otherwise the credits could be lost because the company may choose not to bid on new leases and MMS decides to accept only RIK from the company's leases.

We decline to make this change to the rule. It would create an unnecessary interference with the RIK program just to save a claimant from having to engage in the sale of the credit to another party. Section 256.95 explicitly authorizes transfer of the credits to other parties. Unless the potential uses of the credit are inadequate to absorb all the value represented by the credit, this limitation will not inhibit realization of full value from a transfer of the credit. Potential uses of the credit are clearly not inadequate. For example, in FY 2006, the non-8(g), non-RIK royalty revenue from the GOM was over $2 billion while bonus revenue was $0.8 billion. Thus, ample opportunity exists for use of credits by recipients themselves or others to whom recipients may transfer the credits, which are only $60 million in total.

2. Do not give MMS discretion to apply lessee's unused credits 5 years after MMS issues them however MMS chooses. Lessees holding credits for a longer period is to the financial advantage of the government and computerized recordkeeping obviates any burden this continued holding would create.

Again, we decline to make this change to the rule. Although it is undeniably true that it is to the financial advantage of the government for the lessee to hold on to the credits, there remains concern about recordkeeping issues and administrative costs. Computerization of records facilitates keeping track of unused credits, but does not completely eliminate the monitoring burden and cost of that activity. Also, a company would not likely relinquish its lease to obtain the credit, and then not timely use the credit. Regardless, we will not void the credit after 5 years, but simply apply it to outstanding obligations of the lessee.

Chevron raised the following two objections to the rule:

3. The proposed credit amounts, equal to bonuses and rentals, do not make the parties whole; they should also include a reasonable interest rate for the time value of those payments and compensation for any investments made in exploration activities on the leases.

We decline to make this change to the rule because the GOMESA would not permit us to do so. The statute explicitly values an existing lease for exchange purposes at the amount of bonus and rentals paid until exchange. While we acknowledge that some lessees have spent large sums beyond the original bonus and subsequent rentals and discovered at least one prospect, GOMESA does not authorize reimbursement of either interest or exploration costs through the credits. Lessees retain the option not to relinquish their lease if they feel the compensation is inadequate.

4. The 1-year period to claim the credit is not enforceable. Chevron interprets the absence of a specific time period in the law to claim the credit as meaning that MMS does not have the authority to use a rule implementing a statute to set an expiration date that Congress did not include in the statute.

In response to this comment, the final rule extends the claim period of 1 year in the proposed rule to 2 years. But, we believe a firm deadline is both within our authority and appropriate as an efficient way to design this rulemaking. We have the authority to set a deadline because the statute (section 104(c)(4)) directs the Secretary to ''promulgate regulations that shall provide a process for * * * issuance of bonus or royalty credits in exchange for relinquishment of the existing lease * * *''. A time component is often an integral part of any such process, in this case one designed to resolve the issue of pre-existing leases in an area now designated as off-limits to new oil and gas leasing. Further, the statute does not preclude use of an expiration date and general rulemaking authority permits setting a reasonable expiration date

when it contributes to the purpose of the regulation. A 2-year deadline for acting on the exchange offer is reasonable and appropriate in this process because it provides ample time for lessees to consider and reach a decision about relinquishing their leases in return for the credits, while at the same time not prolonging revelation of that decision and its potential effects in this sensitive area. The deadline serves the statutory policy of assuring a timely approach for addressing outstanding concerns on the part of Florida residents relating to development of the affected leases by encouraging accelerated relinquishment of the leases. In return, lessees qualify for a reimbursement that would not be forthcoming normally for leases that will eventually expire on their own with no reimbursement. Also, the timing constraint serves to terminate rental payments after a reasonable time, thereby mitigating the amount of accrued rentals that would otherwise become part of the credits due if the lease is relinquished.

Both Exxon and Chevron object to the moratoria provisions in the statute. Exxon laments increasing barriers to oil and gas development that could diversify our Nation's sources of supply and notes that energy development and environmental protection can and should continue to co-exist. Chevron notes that the extension of moratoria is contrary to the GOMESA title. The company says that this provision will actually harm energy security by perpetuating the status quo (off-limits to exploration and production activities) in areas of the GOM that are known to contain significant oil and gas resources.

Regardless of the accuracy of these assertions, they are not germane to the rule. Rather, they are more about the concept behind the moratoria language and the requirement for MMS to promulgate a rule encouraging the relinquishment of certain leases offshore Florida as contained in GOMESA. In this case, we are simply drafting the implementation language for a policy decreed by Congress. Moreover, the rule does not force relinquishment of the eligible leases—it just provides an incentive for lessees to do so. Finally, we note that the moratoria period is finite and known resources in the area could be developed fairly quickly if policy should change in the future.

The proposed rule listed all the leases MMS records show as being in the area eligible for exchange for a credit, along with the bonus and rental amounts received from each of those leases and asked whether lessees had any information not consistent with this list. No comments were received on this published list and no one registered a claim that eligible leases were omitted or that the bonus and rental amounts which determine the value of the credits were incorrect.

Procedural Matters

Regulatory Planning and Review (Executive Order (E.O.) 12866)

This final rule is not a significant rule as determined by the Office of Management and Budget (OMB) and is not subject to review under E.O. 12866.

(1) This final rule will not have an annual effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The total value of the credit is defined by statute as bonuses and rental paid on the leases in the eligible area. The MMS records show 79 leases are eligible. Total bonuses and rentals paid in connection with these leases is about $60 million.

(2) This final rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. In fact, it endeavors to end leases whose operations are restricted to accommodate activity carried out by another Federal agency and whose potential activities are opposed by State and local officials in the area.

(3) This final rule will not alter the budgetary effects of entitlements, grants, user fees or loan programs, or the rights or obligations of their recipients.

(4) This final rule will not raise novel legal or policy issues. The final rule will implement a statutory program that exchanges a credit against future obligations for the return of old, largely inactive leases in an area deemed sensitive by statute.

Regulatory Flexibility Act

The Department of the Interior certifies that this final rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This final rule applies to the lessees holding record title interests in the 79 offshore leases located near the coastline of the State of Florida. These lessees fall under the Small Business Administration's North American Industry Classification System (NAICS) code 211111, Crude Petroleum and Natural Gas Extraction. Under this NAICS code, companies with less than 500 employees are considered small businesses. Only 1 of the current record title owners of these 79 leases has less than 500 employees. Moreover, this rule provides a clear benefit to the lessees. It specifies a valuable credit and a simple process for claiming a benefit for relinquishing a lease which the owners have had trouble operating due to access limitations.

This final rule will create a relatively small amount of total credits in exchange for certain leases through a longstanding relinquishment process. The credits could be used to fulfill any of a relatively large pool of routine bonus or royalty in-value OCS obligations under leases located in the GOM. The credits also will be freely transferable or assignable. Thus, should a small entity obtain a credit through a transfer, it will be able to use the credit for routine obligations or it could exchange the credit for approximately equivalent value in a potentially large market of other users. The provisions of this final rule will not have a significant adverse economic effect on offshore lessees and operators, including those that are classified as small businesses.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the actions of MMS, call 1–888–734–3247. You may comment to the Small Business Administration without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the DOI.

Small Business Regulatory Enforcement Fairness Act

This final rule is not a major rule under 5 U.S.C. 804(2) of the Small Business Regulatory Enforcement Fairness Act. This final rule:

a. Will not have an annual effect on the economy of $100 million or more. This final rule will offer credits worth approximately $60 million for the exchange of 79 leases in a sensitive area. Not all companies may choose to relinquish their leases for the credit offered. Even if all the credits were redeemed in 1 year, it will 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, local government agencies, or geographic regions. The credit

represents only a transfer of previous payments back to lessees. The relatively small amount returned by these credits will have little effect on markets, agencies, or regions.

c. Will 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. Productive activities have been restricted on the leases that will be returned, and the monetary credit received in exchange will be too small to have a perceptible effect.

Unfunded Mandates Reform Act

This final rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The final rule will not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings Implication Assessment (E.O. 12630)

Under the criteria in E.O. 12630, this final rule does not have significant takings implications as participation is voluntary. The final rule is not a governmental action capable of interference with constitutionally protected property rights. A Takings Implication Assessment is not required.

Federalism (E.O. 13132)

Under the criteria in E.O. 13132, this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. As noted in the proposed rule, the potential revenue sharing effects are excluded either explicitly or implicitly by virtue of the treatment of the expected credit redemptions. This final rule will not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this final rule will not affect that role. A Federalism Assessment is not required.

Civil Justice Reform (E.O. 12988)

This final rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (E.O. 13175)

Under the criteria in E.O. 13175, we have evaluated this final rule and determined that it has no potential effects on federally recognized Indian tribes. There are no Indian or tribal lands on the OCS.

Paperwork Reduction Act (PRA) of 1995

This rule contains new information collection requirements, and therefore MMS has submitted an information collection request to OMB for review and approval, as required under the PRA. The OMB has approved the new requirements and assigned OMB Control Number 1010–0174 (expiration 09–30–2011, 45 hours). This rule also refers to, but does not change, information collection burdens already covered and approved under OMB Control Number 1010–0006 (expiration 5/31/10). There were no changes in the information collection requirements from the proposed rule to the final rule. The rulemaking imposes no new non-hour cost burdens.

The title of the collection of information for the rule is ''30 CFR Part 256, Bonus or Royalty Credits for Relinquishing Certain Leases Offshore Florida.'' It should be noted that this rulemaking concerns only 79 current leases and will not affect future leases. Therefore, the associated information collection would be a one-time only hour burden should respondents holding eligible leases elect to take advantage of the bonus or royalty credits for relinquishing these leases. Responses to this collection are required to obtain or retain a benefit and are mandatory. The MMS will protect proprietary information according to section 26 of the OCS Lands Act, the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2), and § 256.10(d). The information collection does not include questions of a sensitive nature.

The OMB approved the collection of information required by the current 30 CFR part 256 regulations under OMB Control Number 1010–0006 (17,058 burden hours, $603,125 non-hour cost burdens, expiration 5/31/2010).

The final regulation will allow lessees to request a bonus or royalty credit, and to transfer this same bonus or credit to another party. We estimate a total of 45 burden hours, including the time for gathering the information and submitting the request to MMS for review. Refer to the chart for the burden.

Citation 30 CFR part 256 subpart N	Reporting & recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
92(a)	Request a bonus or royalty credit and submit supporting documentation	1	30	30
92(a)(5)	Submit a request to relinquish lease according to § 256.76	Burden currently approved under 1010–0006.*		
95	Request approval to transfer bonus or credit to another party with supporting information.	1	15	15
Total Burden			45	45

*240 hours for this requirement are already approved under 1010–0006.

A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The public may comment, at any time, on the accuracy of the information collection burden of our regulations and may submit comments to the Department of the Interior; Minerals Management Service; Attention: Regulations and Standards Branch; MS–4024; 381 Elden Street; Herndon, Virginia 20170–4817.

National Environmental Policy Act (NEPA) of 1969

We determined this final rule is categorically excluded from requirements for analysis under the National Environmental Policy Act and the Department Manual at 516 DM. This

rule deals with financial matters and has no direct effect on MMS decisions on oil and gas operations with the potential to affect the environment; hence, an Environmental Impact Statement is not required. Pursuant to Department Manual 516 DM 2.3A (2), section 1.10 of 516 DM 2, Appendix 1 excludes from documentation in an environmental assessment or impact statement ''policies, directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature; or the environmental effects of which are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or case-by-case.'' Section 1.3 of the same appendix clarifies that royalties and audits are considered routine financial transactions that are subject to categorical exclusion from the NEPA process. None of the exceptional circumstances set forth in 516 DM 2 Appendix 2 apply.

Data Quality Act

In developing this final rule we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554, app. C section 515, 114 Stat. 2763, 2763A–153–154).

Effects on the Energy Supply (E.O. 13211)

This final rule is not a significant energy action under the definition in E.O. 13211. A Statement of Energy Effects is not required.

List of Subjects in 30 CFR Part 256

Administrative practice and procedure, Continental shelf, Government contracts, Mineral royalties, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: August 8, 2008.

C. Stephen Allred,

Assistant Secretary—Land and Minerals Management.

■ For the reasons stated in the preamble, the Minerals Management Service (MMS) proposes to amend 30 CFR part 256 as follows:

PART 256—LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTIAL SHELF

■ 1. The authority citation for part 256 is revised to read as follows:

Authority: 31 U.S.C. 9701, 42 U.S.C. 6213, 43 U.S.C. 1334, Pub. L. 109–432.

■ 2. Section 256.5 is amended by adding paragraphs (m) through (s) to read as follows:

§ 256.5 Definitions.

* * * * *

(m) *Bonus or royalty credit* means a legal instrument or other written documentation, or an entry in an account managed by the Secretary that a bidder or lessee may use in lieu of any other monetary payment for—

(1) A bonus due for a lease on the Outer Continental Shelf; or

(2) A royalty due on oil or gas production from any lease located on the Outer Continental Shelf.

(n) *Central planning area* means the Central Gulf of Mexico Planning Area of the Outer Continental Shelf, as designated in the document entitled ''Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012,'' dated February 2006.

(o) *Coastline* means the line of ordinary low water along that portion of the coast in direct contact with the open sea and the line marking the seaward limit of inland waters.

(p) *Desoto Canyon OPD* means the official protraction diagram designated as Desoto Canyon which has a western edge located at the universal transverse mercator (UTM) X coordinate 1,346,400 in the North American Datum of 1927 (NAD 27).

(q) *Destin Dome OPD* means the official protraction diagram designated as Destin Dome which has a western edge located at the universal transverse mercator (UTM) X coordinate 1,393,920 in the NAD 27.

(r) *Eastern planning area* means the Eastern Gulf of Mexico Planning Area of the Outer Continental Shelf, as designated in the document entitled ''Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012,'' dated February 2006.

(s) *Pensacola OPD* means the official protraction diagram designated as Pensacola which has a western edge located at the universal transverse mercator (UTM) X coordinate 1,393,920 in the NAD 27.

■ 3. Add a new subpart N consisting of §§ 256.90 through 256.95 to read as follows:

Subpart N—Bonus or Royalty Credits for Exchange of Certain Leases Offshore Florida

Sec.

§ 256.90 Which leases may I exchange for a bonus or royalty credit?

You may exchange a lease for a bonus or royalty credit if it:

(a) Was in effect on December 20, 2006, and

(b) Is located in:

(1) The Eastern planning area and within 125 miles of the coastline of the State of Florida, or

(2) The Central planning area and within the Desoto Canyon OPD, the Destin Dome OPD, or the Pensacola OPD, and within 100 miles of the coastline of the State of Florida.

§ 256.91 How much bonus or royalty credit will MMS grant in exchange for a lease?

The amount of the bonus or royalty credit for an exchanged lease equals the sum of:

(a) The amount of the bonus payment; and

(b) All rent paid for the lease as of the date the lessee submits the request to exchange the lease under § 256.92 to MMS.

§ 256.92 What must I do to obtain a bonus or royalty credit?

(a) To obtain the bonus or royalty credit, all of the record title interest owners in the lease must submit the following to the MMS Regional Supervisor for Leasing and Environment for the Gulf of Mexico on or before October 14, 2010.

(1) A written request to exchange the lease for the bonus or royalty credit, signed by all record title interest owners in the lease.

(2) The name and contact information for a person who will act as a contact for each record title interest owner.

(3) Documentation of each record title interest owner's percentage share in the lease.

(4) A list of all bonus and rental payments for that lease made by, or on behalf of, each of the current record title owners.

(5) A written relinquishment of the lease as described in § 256.76. Notwithstanding § 256.76, the relinquishment will become effective when the credit becomes effective under paragraph (b) of this section.

(b) The credit becomes effective when MMS issues a certification to the record title interest owners that the lease has qualified for the credit.

§ 256.93 How is the bonus or royalty credit allocated among multiple lease owners?

The MMS will allocate the bonus or royalty credit for an exchanged lease to the current record title interest owners in the same percentage share as each owner has in the lease as of the date of the request to exchange the lease.

§ 256.94 How may I use the bonus or royalty credit?

(a) You may use a credit issued under this part in lieu of a monetary payment due under any lease in the Gulf of Mexico not subject to the revenue distribution provisions of section 8(g)(2) of the OCSLA (43 U.S.C. 1337(g)(2)) for either:

(1) A bonus for acquisition of an interest in a new lease; or

(2) Royalty due on oil and gas production after October 14, 2008.

(b) You may not use a bonus or royalty credit in lieu of delivering oil or gas taken as royalty-in-kind.

(c) If you have any credit that remains unused after 5 years from the date MMS issued the credit, MMS reserves the right to apply the remaining credit to any of your obligations.

§ 256.95 How do I transfer a bonus or royalty credit to another person?

(a) You may transfer your bonus or royalty credit to any other person by submitting to the MMS Adjudication Unit for the Gulf of Mexico two originally executed transfer letters of agreement.

(b) Authorized officers indicated on the qualification card filed with MMS of all companies involved in transferring and receiving the credit must sign the transfer letters of agreement.

(c) A transfer letter of agreement must include:

(1) The effective date of the transfer,

(2) The OCS–G number for the lease that originally qualified for the credit,

(3) The amount of the credit being transferred,

(4) Company names punctuated exactly as filed on the qualification card at MMS, and

(5) A corporate seal, if you used a corporate seal in your initial qualification to hold OCS leases.

(d) The transferee of a credit transferred under this section may use it in accordance with § 256.94 as soon as MMS sends a confirmation of the transfer to the transferee.

[FR Doc. E8–21135 Filed 9–11–08; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[SATS No: ND–050–FOR; Docket ID No. OSM–2008–0004]

North Dakota Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving an amendment to the North Dakota regulatory program (the ''North Dakota program'') under the Surface Mining Control and Reclamation Act of 1977 (''SMCRA'' or ''the Act''). North Dakota proposed minor revisions to its rules concerning self-bonding requirements, and updating terminology used for describing native grasslands, and correcting a cross reference error. North Dakota intended to revise its program to clarify ambiguities and improve operational efficiency.

DATES: *Effective Date:* September 12, 2008.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Casper Field Office Director Telephone: 307/261–6550, Internet 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, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the North Dakota program on 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 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 934.15, and 934.30.

II. Submission of the Proposed Amendment

By letter dated March 12, 2008, North Dakota sent us an amendment to its program (North Dakota Amendment number XXXVII, SATS No. ND–050–FOR, Administrative Record No. ND–LL–01) under SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota sent the amendment to include changes made at its own initiative.

We announced receipt of the proposed amendment in the April 18, 2008, **Federal Register** (73 FR 21087). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on May 5, 2008. We received a ''no inconsistency with this agency's regulations'' comment from the U.S. Department of Labor's Mine Safety and Health Administration (MSHA), ''no comments'' from the State Historical Society of North Dakota (SHPO), and a ''we agree'' comment from the North Dakota State University Extension Service (NDSU Extension Service).

III. OSM's Findings

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.

A. Minor Revisions to North Dakota's Rules

1. North Dakota proposed a cross-reference change under its previously approved permit approval criteria Rule NDAC 69–05.2–10–03. The cross-reference is being changed from Section 69–05.2–04–01 to Section 69–05.2–04–01.1 and is due to a Rule numbering revision that was made several years ago when some new rules were adopted by North Dakota.

2. In NDAC 69–05.2–08–08, (pre-mine land use and vegetation data requirements), North Dakota proposed to update the terminology used to describe native grasslands to reflect the terminology now used by USDA's Natural Resource Conservation Service (NRCS).

Because these changes are minor, we find that they will not make North