

Section 1.280F-6 also issued under 26 U.S.C. 280F. * * *

2. Section 1.280F-6 is amended as follows:

§ 1.280F-6 Special rules and definitions.

[The text of this proposed section is the same as the text of the amendments to § 1.280F-6T published elsewhere in this issue of the **Federal Register**.]

Robert E. Wenzel,

Deputy Commissioner for Services and Enforcement.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[ND-047-FOR, Amendment No. XXXIV]

North Dakota Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of a proposed amendment to the North Dakota regulatory program (hereinafter, the "North Dakota program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). North Dakota proposes revisions to its rules about bonding, blasting, and revegetation success standards. North Dakota intends to revise its program to clarify ambiguities, and improve operational efficiency.

This document gives the times and locations that the North Dakota program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., m.d.t. August 6, 2003. If requested, we will hold a public hearing on the amendment on August 1, 2003. We will accept requests to speak until 4 p.m., m.d.t. on July 22, 2003.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Guy Padgett at the address listed below.

You may review copies of the North Dakota program, this amendment, a

listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting Office of Surface Mining Reclamation and Enforcement (OSM's) Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East "B" Street, Federal Building, Room 2128, Casper, Wyoming 82601-1918, 307-261-6550, GPadgett@osmre.gov.

James R. Deutsch, Director, Reclamation Division, Public Service Division, 600 East Boulevard Avenue, Dept. 408, Bismarck, North Dakota 58505-0480, 701-328-2400, jrd@psc.state.nd.us.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: 307-261-6550. Internet: GPadgett@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the North Dakota Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

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 the 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 of the North Dakota program 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 934.12, 934.13, 934.15, and 934.30.

II. Description of the Proposed Amendment

By letter dated April 23, 2003, North Dakota sent us a proposed amendment to its program (Amendment number ND-XXXIV), administrative record No.

ND-II-01) under SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota sent the amendment to include changes made at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

The provisions of the North Dakota Administrative Code (NDAC) that North Dakota proposes to revise are: (1) NDAC 69-05.2-01-02, Definitions; (2) NDAC 69-05.2-12-01, Performance bond—General requirements; (3) NDAC 69-05.2-12-04, Performance bond—Collateral bond; (4) NDAC 69-05.2-17-07, Performance standards—Use of Explosives—Records of Blasting operations; and (5) NDAC 69-05.2-22-07, Performance standards—Revegetation—Standards for success.

Specifically, NDAC 69-05.2-01-02 (Definitions) is being revised to add irrevocable letters of credit as one of the financial supports for a collateral bond; NDAC 69-05.2-12-01 (Performance bond—General requirements) is being revised to allow the posting of more than one bond to guarantee specific phases of reclamation within the permit area; NDAC 69-05.2-12-04 (Performance bond—Collateral bond) is being revised to specify that: (1) The permittee obtain prior North Dakota Public Service (Commission) approval of the bank that will issue the letter of credit, (2) the term of the letter must be at least one year, (3) the bank issuing the credit must give the Commission at least 90 days notice if it intends to terminate the credit at the end of the current term, (4) the Commission will not accept letters of credit in excess of 10 percent of the bank's total equity, and (5) the bank must provide the Commission with notice of any pending action that could result in suspension or revocation of the bank's charter or license to do business; NDAC 69-05.2-17-07 is being revised to make a minor editorial change to clarify that other structures (as well as dwellings, schools, churches, and commercial and institutional buildings) may be protected from certain blasting operations; and NDAC-69-05-22-07, minor editorial changes to North Dakota's revegetation success standards that clarify that the standards can be exceeded, as well as met, for demonstrating reclamation success.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the North Dakota program.