

TABLE 1.—AFFECTED HPC STAGE 3 DISC ASSEMBLIES

Engine model	Rework band for cyclic life accumulated on disc assemblies P/Ns LK46210 and LK58278 (pre RR service bulletin (SB) No. RB.211-72-5420)	Rework band for cyclic life accumulated on disc assembly P/N LK67634 (pre RR SB No. RB.211-72-5420)	Rework band for cyclic life accumulated on P/Ns LK76036, UL11706, UL15358, UL22577, UL22578, and UL24738 disc assemblies (pre RR SB No. RB.211-72-9434)
-22B series	4,000-6,200	7,000-10,000	11,500-14,000
-535E4 series	N/A	N/A	9,000-15,000
-524B-02, B-B-02, B3-02, and B4 series, Pre and SB No. 72-7730	4,000-6,000	7,000-9,000	11,500-14,000
-524B2 and C2 series, Pre SB No. 72-7730	4,000-6,000	7,000-9,000	11,500-14,000
-524B2-B-19 and C2-B-19, SB No. 72-7730	4,000-6,000	7,000-9,000	8,500-11,000
-524D4 series, Pre SB No. 72-7730	4,000-6,000	7,000-9,000	11,500-14,000
-524D4-B series, SB No. 72-7730	4,000-6,000	7,000-9,000	8,500-11,000
-524G2, G3, H, and H2 series	4,000-6,000	7,000-9,000	8,500-11,000

(1) For discs that entered into service before 1990, remove disc and rework as specified in paragraph (g)(2) of this AD, within five years from the effective date of this AD, but not to exceed the upper cyclic limit of Table 1 of this AD before rework. Discs reworked may not exceed the manufacturer's published cyclic limit in the time limits section of the manual.

(2) For discs that entered into service in 1990 or later, remove disc within the cyclic life rework bands in Table 1 of this AD, or within 17 years after the date of the disc assembly entering into service, whichever is sooner, but not to exceed the upper cyclic limit of Table 1 of this AD before rework. Discs reworked may not exceed the manufacturer's published cyclic limit in the time limits section of the manual.

(3) For disc assemblies that when new, were modified with an application of anti-corrosion protection and re-marked to P/N LK76036 (not previously machined) as specified by Part 1 of the original issue of RR service bulletin (SB) No. RB.211-72-5420, dated April 20, 1979, remove RB211-22B disc assemblies before accumulating 10,000 cycles-in-service (CIS), and remove RB211-524 disc assemblies before accumulating 9,000 CIS.

(4) If the disc assembly date of entry into service cannot be determined, the date of disc manufacture may be obtained from RR and used instead.

Optional Rework of HPC Stage 3 Discs

(g) Rework HPC stage 3 disc assemblies that were removed in paragraph (f) of this AD as follows:

(1) For disc assemblies that when new, were modified with an application of anti-corrosion protection and re-marked to P/N LK76036 (not previously machined) as specified by Part 1 of the original issue of RR SB RB.211-72-5420, dated April 20, 1979, rework disc assemblies and re-mark to either LK76034 or LK78814 using paragraph 2.B. of the Accomplishment Instructions of RR SB No. RB.211-72-5420, Revision 4, dated February 29, 1980. This rework constitutes terminating action to the removal requirements in paragraph (f) of this AD.

(2) For all other disc assemblies, rework using Paragraph 3B. of the Accomplishment Instructions of RR SB No. RB.211-72-9434, Revision 4, dated January 12, 2000. This rework constitutes terminating action to the removal requirements in paragraph (f) of this AD.

Note 1: If rework is done on disc assemblies that are removed before the disc assembly reaches the lower life of the cyclic life rework band in Table 1 of this AD, artificial aging of the disc to the lower life of the rework band, at time of rework, is required.

Alternative Methods of Compliance

(h) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(i) You must use Rolls-Royce Service Bulletin No. RB.211-72-5420, Revision 4, dated February 29, 1980, and Rolls-Royce Service Bulletin No. RB.211-72-9434, Revision 4, dated January 12, 2000, to perform the rework required by this AD. The Director of the Federal Register approved the incorporation by reference of these service bulletins in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Rolls-Royce plc, PO Box 31, Derby, England, DE248BJ; telephone: 011-44-1332-242424; fax: 011-44-1332-245-418. You can review copies at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Related Information

(j) Civil Aviation Authority airworthiness directive 004-01-94, dated January 4, 2002, and RR Mandatory Service Bulletin No. RB.211-72-9661, Revision 3, dated December 20, 1999, pertain to the subject of this AD.

Issued in Burlington, Massachusetts, on January 8, 2004.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 04-759 Filed 1-16-04; 8:45 am]

BILLING CODE 4910-13-P

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: Final rule; approval of amendment.

SUMMARY: We are approving a proposed 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 revisions to rules that would allow the State to accept letters of credit as the monetary pledge for collateral bonds, would allow phased bonding over a bond area, would clarify provisions on blasting records kept by mining companies, and would standardize terminology in revegetation success standards for bond release. North Dakota intends to revise its program to provide additional safeguards, clarify ambiguities, and improve operational efficiency.

EFFECTIVE DATE: January 20, 2004.

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

SUPPLEMENTARY INFORMATION:

- I. Background on the North Dakota Program
- II. Submission of the Proposed Amendment
- III. Office of Surface Mining Reclamation and Enforcement's (OSM's) Findings
- IV. Summary and Disposition of Comments
- V. OSM's Decision
- VI. 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 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, 934.16, and 934.30.

II. Submission of the Proposed Amendment

By letter dated April 23, 2003, North Dakota sent us an amendment to its program (Amendment number 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 provisions of the North Dakota Administrative Code (NDAC) that North Dakota proposed to revise are: (1) NDAC 69-05.2-01-02 (Definitions) to add irrevocable letters of credit as one of the financial supports for a collateral bond; (2) NDAC 69-05.2-12-01 (Performance bond—General requirements) to allow the posting of more than one bond to guarantee specific phases of reclamation within the permit area; (3) NDAC 69-05.2-12-04 (Performance bond—Collateral bond) to specify that: (a) The permittee obtain prior North Dakota Public Service (Commission) approval of the bank that will issue the letter of credit, (b) the

term of the letter of credit must be at least one year, (c) the bank issuing the credit must give the Commission at least 90 days notice if it intends to terminate the letter of credit at the end of the current term, (d) the Commission will not accept letters of credit in excess of 10 percent of the bank's total equity, and (e) 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; (4) NDAC 69-05.2-17-07 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 (5) 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.

We announced receipt of the proposed amendment in the July 7, 2003, **Federal Register** (68 FR 40225). 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 (Administrative Record No. ND-II-07).

The public comment period ended on August 6, 2003. We received comments from one Federal agency, one university and one State society. No one requested a public meeting or hearing, therefore we did not conduct one.

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

North Dakota proposed minor wording changes to the following previously-approved rules.

1. NDAC 69-05.2-17-07. *Performance standards—Use of Explosives—Records of blasting operations* [30 CFR 816.68]
2. NDAC 69-05.2-22-07. *Performance standards—Revegetation—Standards for success* [30 CFR 816.116]

Because the above changes are both minor, we find that they will not make North Dakota's rules less effective than the corresponding Federal regulations.

B. Revisions to North Dakota's Rules That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations

North Dakota proposed revisions to the following rules containing language that is the same as or similar to the corresponding sections of the Federal regulations.

1. NDAC 69-05.2-01-02.13, *Definitions (Collateral bond)* [30 CFR 800.5]
2. NDAC 69-05.2-12-01.11, *Performance Bond—General Requirements* [30 CFR 800.13(a)(2)]
3. NDAC 69-05.2-12-04.2, *Performance bond—Collateral bond* [30 CFR 800.21(b) and 800.16(e)]

Because these proposed rules contain language that is the same as or similar to the corresponding Federal regulations, we find that they are no less effective than the corresponding Federal regulations.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record No. ND-II-03), and one university replied. Duane Hauck, Assistant Director of Agriculture and Natural Resources, wrote in his May 20, 2003, letter, that "The NDSU Extension Service has no additional comments" (Administrative Record No. ND-II-05)

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the North Dakota program (Administrative Record No. ND-II-03).

Ray McKinney of the Mine Safety and Health Administration replied on June 9, 2003, that "none of the changes have a direct impact upon employee or public health or safety and, consequently, MSHA has no comments or recommendations concerning the changes." (Administrative Record No. ND-II-06).

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i), OSM requested comments on the amendment from EPA (Administrative Record No. ND-II-03). EPA did not respond to our request.

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the

SHPO and ACHP on amendments that may have an effect on historic properties. On May 5, 2003, we requested comments on North Dakota's amendment (Administrative Record No. ND-II-03), but ACHP did not respond to our request. The SHPO responded on May 14, 2003, that "We have no comments on the document." (Administrative Record No. ND-II-04).

V. OSM's Decision

We approve the rules as proposed by North Dakota with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public. We approve: (1) NDAC 69-05.2-01-02.13, Definition of Collateral Bond; (2) NDAC 69-05.2-12-01.11, Performance Bond—General Requirements; (3) NDAC 69-05.2-12-04.2, 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.

To implement the decision to approve the rules, we are amending the Federal regulations at 30 CFR Part 934, which codify decisions concerning the North Dakota program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrates that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory

programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian Tribes and have determined that the rule does not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. The rule does not involve or affect Indian Tribes in any way.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not

expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does 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, or local government agencies, or geographic regions; and (c) does 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.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the state submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 12, 2003.

Allen D. Klein,

Regional Director, Western Regional Coordinating Center.

■ For the reasons set out in the preamble, 30 CFR part 934 is amended as set forth below:

PART 934—North Dakota

■ 1. The authority citation for part 934 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 934.15 is amended in the table by adding a new entry in chronological order by “date of final publication” to read as follows:

§ 934.15 Approval of North Dakota regulatory program amendments

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * *	* * * * *	* * * * *
4-23-03	1-20-04	NDAC 69-05.2-01-02.13, NDAC 69-05.2-12-01.11, NDAC 69-05.2-12-04.2, NDAC 69-05.2-17-07, NDAC 69-05.2-22-07.

[FR Doc. 04-1064 Filed 1-16-04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01-03-036]

RIN 1625-AA00

Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing permanent safety and security zones in portions of the waters around La Guardia and John F. Kennedy airports in Queens, NY, the New York City Police Department (NYPD) ammunition depot on Rodman Neck in Eastchester Bay, the Port Newark and Port Elizabeth, NJ, commercial shipping facilities in Newark Bay, and between the Global Marine and Military Ocean Terminals in Upper New York Bay. This action is necessary to safeguard critical port infrastructure and coastal facilities from sabotage, subversive acts, or other threats. The zones prohibit entry into or movement within these areas without authorization from the Captain of the Port New York.

DATES: This rule is effective January 20, 2004.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-03-036) and are available for inspection or copying at room 203, Coast Guard Activities New York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander W. Morton, Waterways Oversight Branch, Coast Guard Activities New York at (718) 354-4191.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 19, 2003, we published a temporary final rule; request for comments (TFR) entitled “Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone” in the **Federal Register** (68 FR 7926). We received no letters commenting on the temporary rule. No public hearing was requested, and none was held.

On August 7, 2003, we published a notice of proposed rulemaking (NPRM) entitled “Safety and Security Zones;

New York Marine Inspection Zone and Captain of the Port Zone” in the **Federal Register** (68 FR 46984). We received three letters commenting on the proposed rule. No public hearing was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard operates under a three-tiered system of Maritime Security (MARSEC) conditions that are aligned with the color-coded Homeland Security Advisory System Conditions (HSAS). The port of New York has been elevated to the second highest level of alert MARSEC II/HSAS ORANGE based on recent intelligence information. Vessel control measures for the Coast Guard to establish heightened deterrence and detection of terrorist activities in the port are necessary.

Additionally, the Maritime Administration recently issued MARAD Advisory 03-06 (221500ZDEC 03) informing operators of maritime interests of increased threat possibilities to vessels and facilities and a higher risk of terrorist attack to the transportation community in the United States. Further, the heightened security posture of the country and U. S. maritime interests, described below, continues.

For these reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The measures contemplated by the rule are intended to prevent waterborne acts of sabotage or terrorism, which terrorists have demonstrated a capability to carry out. Immediate action is needed to defend against and deter these terrorist acts. Any delay in the effective date of this rule is impracticable and contrary to the public interest.

Background and Purpose

On September 11, 2001, three commercial aircraft were hijacked and flown into the World Trade Center in New York City, and the Pentagon, inflicting catastrophic human casualties and property damage. National security and intelligence officials warn that future terrorist attacks are likely. The President has continued the national emergencies he declared following the September 11, 2001 terrorist attacks. *See, Continuation of the National Emergency with Respect to Certain Terrorist Attacks*, 67 FR 58317 (September 13, 2002); *Continuation of the National Emergency With Respect To Persons Who Commit, Threaten To Commit, Or Support Terrorism*, 67 FR 59447 (September 20, 2002). The