

ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### List of Subjects in 28 CFR Part 28

Crime, Information, Law enforcement, Prisoners, Prisons, Probation and parole, Records.

For the reasons stated in the preamble, the Department of Justice proposes to amend 28 CFR part 28 as follows:

#### PART 28—DNA IDENTIFICATION SYSTEM

1. The authority citation for part 28 is revised to read as follows:

**Authority:** 28 U.S.C. 509, 510; 42 U.S.C. 14132, 14135a, 14135b; 10 U.S.C. 1565; Public Law 106–546, 114 Stat. 2726; Public Law 107–56, 115 Stat. 272; Public Law 108–405, 118 Stat. 2260; Public Law 109–162, 119 Stat. 2960; Pub. L. 109–248, 120 Stat. 587.

2. Section 28.12 is revised to read as follows:

##### § 28.12 Collection of DNA samples.

(a) The Bureau of Prisons shall collect a DNA sample from each individual in the custody of the Bureau of Prisons who is, or has been, convicted of—

(1) A Federal offense (including any offense under the Uniform Code of Military Justice); or

(2) A qualifying District of Columbia offense, as determined under section 4(d) of Public Law 106–546.

(b) Any agency of the United States that arrests or detains individuals or supervises individuals facing charges shall collect DNA samples from individuals who are arrested, facing charges, or convicted, and from non-United States persons who are detained under the authority of the United States. For purposes of this paragraph, “non-United States persons” means persons who are not United States citizens and who are not lawfully admitted for permanent residence as defined in 8 CFR 1.1(p). Unless otherwise directed by the Attorney General, the collection of DNA samples under this paragraph may be limited to individuals from whom the agency collects fingerprints and may be subject to other limitations or exceptions approved by the Attorney General. The DNA-sample collection requirements for the Department of Homeland Security in relation to non-arrestees do not include, except to the extent provided by the Secretary of Homeland Security, collecting DNA samples from:

(1) Aliens lawfully in, or being processed for lawful admission to, the United States;

(2) Aliens held at a port of entry during consideration of admissibility and not subject to further detention or proceedings;

(3) Aliens held in connection with maritime interdiction; or

(4) Other aliens with respect to whom the Secretary of Homeland Security, in consultation with the Attorney General, determines that the collection of DNA samples is not feasible because of operational exigencies or resource limitations.

(c) The DNA-sample collection requirements under this section shall be implemented by each agency as soon as feasible, and in any event shall be implemented fully by each agency no later than December 31, 2008.

(d) Each individual described in paragraph (a) or (b) of this section shall cooperate in the collection of a DNA sample from that individual. Agencies required to collect DNA samples under this section may use or authorize the use of such means as are reasonably necessary to detain, restrain, and collect a DNA sample from an individual described in paragraph (a) or (b) who refuses to cooperate in the collection of the sample.

(e) Agencies required to collect DNA samples under this section may enter into agreements with other agencies described in paragraph (a) or (b) of this section, with units of state or local governments, and with private entities to carry out the collection of DNA samples. An agency may, but need not, collect a DNA sample from an individual if—

(1) Another agency or entity has collected, or will collect, a DNA sample from that individual pursuant to an agreement under this paragraph;

(2) The Combined DNA Index System already contains a DNA analysis with respect to that individual; or

(3) Waiver of DNA-sample collection in favor of collection by another agency is authorized by 42 U.S.C. 14135a(a)(3) or 10 U.S.C. 1565(a)(2).

(f) Each agency required to collect DNA samples under this section shall—

(1) Carry out DNA-sample collection utilizing sample-collection kits provided or other means authorized by the Attorney General, including approved methods of blood draws or buccal swabs;

(2) Furnish each DNA sample collected under this section to the Federal Bureau of Investigation, or to another agency or entity as authorized by the Attorney General, for purposes of analysis and entry of the results of the analysis into the Combined DNA Index System; and

(3) Repeat DNA-sample collection from an individual who remains or becomes again subject to the agency’s jurisdiction or control if informed that a sample collected from the individual does not satisfy the requirements for analysis or for entry of the results of the analysis into the Combined DNA Index System.

(g) The authorization of DNA-sample collection by this section pursuant to Public Law 106–546 does not limit DNA-sample collection by any agency pursuant to any other authority.

Dated: April 11, 2008.

**Michael B. Mukasey,**  
*Attorney General.*

[FR Doc. E8–8339 Filed 4–17–08; 8:45 am]

**BILLING CODE 4410–19–P**

#### DEPARTMENT OF THE INTERIOR

##### Office of Surface Mining Reclamation and Enforcement

##### 30 CFR Part 930

[SATS No. ND–050–FOR; Docket ID OSM–2008–0004; North Dakota Amendment No. XXXVIII]

##### 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 rules that would change self-bonding requirements, update terminology used for describing native grasslands, and correct a cross reference error. At its own initiative, it intends to revise its program to 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. May 19, 2008. If requested, we will hold a public hearing on the amendment on May 13, 2008. We will

accept requests to speak until 4 p.m., m.d.t. on May 5, 2008.

**ADDRESSES:** You may submit comments, identified by "SATS No. ND-050-FOR" and/or Docket ID OSM-2008-0004" by any of the following methods:

- *E-mail:* [JFleischman@osmre.gov]. Include OSM-2008-0004 in the subject line of the message.

- *Mail/Hand Delivery/Courier:* Jeffrey W. Fleischman, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, 150 East B Street, Room 1018, Casper, Wyoming 82601-1018, 307/261-6550, JFleischman@osmre.gov.

- *Fax:* 307/261-6552.
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. The proposed rule has been assigned Docket ID: OSM-2008-0004. If you would like to submit comments through the Federal eRulemaking Portal, go to [www.regulations.gov](http://www.regulations.gov) and do the following. Click on the "Advanced Docket Search" button on the right side of the screen. Type in Docket ID OSM-2008-0004 and click the "Submit" button at the bottom of the page. The next screen will display Docket Search Results for the rulemaking. If you click on OSM-2008-0004 you can view the proposed rule and submit a comment. You can also view supporting material and any comments submitted by others.

*Instructions:* All submissions received must include the agency name and OSM-2008-0004. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Comment Procedures" heading in the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* In addition to viewing the Docket and obtaining copies of documents at <http://www.regulations.gov>, you may also 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 the Office of Surface Mining Reclamation and Enforcement (OSM's) Casper Field Office.

Jeffrey W. Fleischman, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, 150 East B Street, Room 1018, Casper, Wyoming 82601-1018, 307/261-6550, JFleischman@osmre.gov

James R. Deutsch, North Dakota Public Service Commission, Capitol Building, Bismarck, North Dakota 58505, *Tel:* 701-328-2251, *E-mail:* jrd@oracle.psc.state.nd.us

**FOR FURTHER INFORMATION CONTACT:** Jeffrey W. Fleischman, Telephone: 307-261-6550. Internet: JFleischman@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 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 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 934.15, and 934.30.

### II. Description of the Proposed Amendment

By letter dated March 12, 2008, North Dakota sent us a proposed amendment (Amendment number North Dakota XXXVIII) to its program, under SMCRA (30 U.S.C. 1201 *et seq.*). The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

Specifically, North Dakota proposes to: (1) Revise its self bonding provisions under North Dakota Administrative Code (NDAC) Article 69-5.2-12-05.1 to allow the North Dakota Public Service Commission to accept bond ratings from other nationally recognized rating organizations in addition to Moody's Investors Service and Standards and Poor's ratings, for companies that guarantee self bonds; (2) update, under NDAC 69-05.2-08-08, premine land use and vegetation requirements, and some terminology used for native

grassland descriptions to reflect what is used by USDA's Natural Resource Conservation Service; and (3) correct a cross reference error in NDAC 69-05.2-10-03.

### 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.

#### Written Comments

Send your written or electronic comments to OSM at the address given above. Your comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your written comments when developing the final rule if they are received after the close of the comment period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Casper Field Office, or <http://www.regulations.gov>, may not be logged in.

#### Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

#### Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.d.t. on May 5, 2008. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak

has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak have been heard.

#### *Public Meeting*

If there is only limited interest in participating in a public hearing, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

#### **IV. Procedural Determinations**

##### *Executive Order 12630—Takings*

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

##### *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.

##### *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. 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. 4321 et seq.).

##### *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. 3501 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 Federal regulations.

##### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), of 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.
- 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 Federal regulations for which an analysis was prepared and a determination made that the Federal regulations were not considered major.

##### *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 Federal regulations for which an analysis was prepared and a determination made that the Federal regulations did not impose an unfunded mandate.

##### **List of Subjects in 30 CFR Part 930**

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 2, 2008.

**Billie E. Clark,**

*Acting Regional Director, Western Region.*

[FR Doc. E8-8408 Filed 4-17-08; 8:45 am]

BILLING CODE 4310-05-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[USCG-2008-0207]

RIN 1625-AA09

#### **Drawbridge Operation Regulations; Potomac River, Oxon Hill, MD and Alexandria, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to temporarily change the regulations governing the operation of the new Woodrow Wilson Memorial (I-95) Bridge, mile 103.8, across Potomac River between Alexandria, Virginia and Oxon Hill, Maryland. This action is necessary to finalize construction of the drawbridge. While construction continues, this proposal would allow the drawbridge to remain closed-to-navigation each day from 10 a.m. to 2 p.m. beginning May 31, 2008 until and including March 1, 2009.

**DATES:** Comments and related material must reach the Coast Guard by June 2, 2008.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG-2008-0207 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) Online: <http://www.regulations.gov>.

(2) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(3) Hand delivery: Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) Fax: 202-493-2251.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard

District, at (757) 398-6222. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

##### **Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0207), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### **Viewing Comments and Documents**

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> at any time. Enter the docket number for this rulemaking (USCG-2008-0207) in the Search box, and click "Go>>." You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday,

except Federal holidays or at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 233704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

##### **Privacy Act**

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

##### **Public Meeting**

Currently, no public meeting is scheduled. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### **Background and Purpose**

On March 5, 2008, we published a notice of temporary deviation from the regulations entitled "Drawbridge Operation Regulations; Potomac River, Between Maryland and Virginia" in the **Federal Register** (73 FR 13127).

The Maryland State Highway Administration and the Virginia Department of Transportation, co-owners of the drawbridge, requested an extension of the aforementioned temporary deviation for a longer period of time in an effort to minimize the potential for major regional traffic impacts and consequences during bridge openings while construction continues. Bridge owners requested that the drawbridge not be available for openings for vessels each day between the hours of 10 a.m. to 2 p.m. from Saturday, May 31, 2008 through Sunday, March 1, 2009 or until the bridge is properly commissioned, whichever comes first. Construction will continue during this time period and the normal vehicular traffic pattern with five lanes operating in each direction is not anticipated until near the end of the time period.

From a river-user standpoint, the coordinators for the construction of the new Woodrow Wilson Bridge Project have received no requests from boaters or mariners to open during the 10 a.m.