

to meet the OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notice of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

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

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, 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 since each such 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 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.

National Environmental Policy Act

No environmental impact statement is required for this rule since 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 has determined 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. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. 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.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 9, 1996.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 96-647 Filed 1-19-96; 8:45 am]

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30 CFR Part 914

[SPAT No. IN-134-FOR; Amendment No. 95-12]

Indiana Regulatory Program

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

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

SUMMARY: OSM is announcing receipt of a proposed amendment to the Indiana regulatory program (hereinafter the "Indiana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Indiana Surface Coal Mining and Reclamation Act (ISM CRA) as enacted by the Indiana General Assembly (1995) in Senate Enrolled Act 125 (SEA 125). The proposed amendment concerns the submittal of affected area status reports and performance bonding. The amendment is intended to revise the Indiana program to be consistent with SMCRA and to incorporate State initiatives.

DATES: Written comments must be received by 4:00 p.m., e.s.t., February 21, 1996. If requested, a public hearing on the proposed amendment will be held on February 13, 1996. Requests to speak at the hearing must be received by 4:00 p.m., e.s.t., on February 6, 1996.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. Roger W. Calhoun, Director, Indianapolis Field Office, at the address listed below.

Copies of the Indiana program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Indianapolis Field Office.

Roger W. Calhoun, Director,
Indianapolis Field Office, Office of
Surface Mining Reclamation and
Enforcement, Minton-Capehart
Federal Building, Room 301,
Indianapolis, Indiana 46204,
Telephone: (317) 226-6700.

Indiana Department of Natural
Resources, 402 West Washington
Street, Room C256, Indianapolis,
Indiana 46204, Telephone: (317) 232-
1547.

FOR FURTHER INFORMATION CONTACT:

Roger W. Calhoun, Director,
Indianapolis Field Office, Telephone:
(317) 226-6700.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 26, 1982, Federal Register (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

II. Description of the Proposed Amendment

By letter dated September 11, 1995 (Administrative Record No. IND-1510), Indiana submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment at its own initiative. SEA 125 amends ISMCRA by adding new sections and revising existing sections, concerning affected area status reports and performance bonding, to recodified Indiana Code (IC) 14-8 and 14-34. The recodification of the current provisions of ISMCRA is proposed in Indiana's Regulatory Program Amendment No. 95-10, and it

will be discussed in a separate proposed rule.

A. Indiana Proposes to Add the Following Four Definitions at Recodified IC 14-8 [previously IC 13-4.1-1-3]

1. IC 14-8-2-42.5 Definition of Collateral

“Collateral”, for purposes of IC 14-34-7, has the meaning set forth in IC 14-34-7-0.5.

2. IC 14-8-2-49.5 Definition of Comparative Balance Sheet

“Comparative balance sheet”, for purposes of IC 14-34-7, has the meaning set forth in IC 14-34-7-0.6.

3. IC 14-8-2-49.6 Definition of Comparative Income Statement

“Comparative income statement”, for purposes of IC 14-34-7, has the meaning set forth in IC 14-34-7-0.7.

4. IC 14-8-2-274.5 Definition of Surface Mining Control and Reclamation Act

“Surface Mining Control and Reclamation Act”, for purposes of IC 14-34-7, has the meaning set forth in IC 14-34-7-2.5.

B. IC 14-34-5-10 Affected Area Status Reports

Indiana proposes to amend recodified IC 14-34-5-10 [previously IC 13-4.1-5-7] to read as follows.

A permittee must submit to the department an annual report that reflects the status of the permittee's mining and reclamation activities for each permit. The form, content, and date of filing of the report required by this section shall be prescribed by rule adopted under IC 4-22-2.

C. Indiana Proposes to Add the Following New Sections Pertaining to General Requirements of Performance Bonding at Recodified IC 14-34-6 [Previously IC 13-4.1-6]

1. IC 14-34-6-14.3

The director may release the bond, deposit, or letter of credit covering an area that has not been disturbed by surface coal mining activities. A release under this subsection is not subject to the public notice and hearing requirements set forth in sections 7 through 14 of this chapter.

2. IC 14-34-6-14.6

(a) This section applies when an applicant or permittee submits a bond, deposit, or letter of credit covering an area that: (1) has been disturbed by surface coal mining activities; and (2) is covered by another bond, deposit, or letter of credit previously submitted by another permittee.

(b) Except as provided in subsection (c), in a situation described in subsection (a): (1) The bond, deposit, or letter of credit previously submitted shall be released when the director accepts the bond deposit or letter

of credit submitted by the applicant or permittee; and (2) the bond, deposit, or letter of credit submitted by the applicant or permittee: (A) is subject to the standards set forth in sections 7 through 14 of this chapter; and (B) may not be released under section 14.3 of this chapter.

(c) If two (2) or more persons who are applicants or permittees each file a bond, deposit, or letter of credit covering the same area, the persons may enter into a written agreement that allocates responsibility among the persons for the reclamation of the area.

If the agreement is approved by the director, the agreement governs the respective responsibilities of the persons for the reclamation of the area.

D. Indiana Proposes To Add the Following Definition Sections Pertaining to Self-Bonding at Recodified IC 14-34-7 [Previously IC 13-4.1-6.3]

1. IC 14-34-7-0.5 Definition of Collateral

As used in this chapter, “collateral” means the actual or constructive deposit, as appropriate, with the director of one (1) or more of the following types of property in support of a self-bond:

(1) A perfected, first-lien security interest in favor of the department of natural resources in real property located in Indiana that meets the requirements of this chapter.

(2) Securities backed by the full faith and credit of the United States government, or state government securities, that are: (A) acceptable to; (B) endorsed to the order of; and (C) placed in the possession of; the director.

(3) Personal property that is located in Indiana and owned by the applicant, the market value of which is more than one million dollars (\$1,000,000) per property unit.

2. IC 14-34-7-0.6 Definition of Comparative Balance Sheet

As used in this chapter, “comparative balance sheet” means item accounts from a number of the operator's successive yearly balance sheets arranged side by side in a single statement.

3. IC 14-34-7-0.7 Definition of Comparative Income Statement

As used in this chapter, “comparative income statement” means an operator's income statement amounts for a number of successive yearly periods arranged side by side in a single statement.

4. IC 14-34-7-2.5 Definition of Surface Mining Control and Reclamation Act

As used in this chapter, “Surface Mining Control and Reclamation Act” means the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328).

E. IC 14-34-7-1 Definition of Liabilities

Indiana proposes to amend recodified IC 14-34-7-1 [previously IC 13-4.1-

6.3-5] by adding the following exclusion statement to the end of the definition.

The term does not include amounts that are required to be recorded for financial accounting purposes under Statement of Financial Accounting Standards number 106 issued by the Financial Accounting Standards Board and effective December 1990.

F. Indiana Proposes To Amend Recodified IC 14-34-7-4 [Previously IC 13-4.1-6.3-2, 3, 4, and 8] by Revising Existing Subsections as Follows

1. IC 14-34-7-4(b) [Was IC 13-4.1-6.3-3] Definition of Current Liabilities

(b) As used in this section, “current liabilities” means: (1) obligations that are reasonably expected to be paid or liquidated within one (1) year or within the normal operating cycle of the business; plus (2) dividends payable on preferred stock within: (A) one (1) quarter, if declared; or (B) one (1) year, if a pattern of declaring dividends each quarter is apparent from past business practice.

2. IC 14-34-7-4(d) [Was IC 13-4.1-6.3-8] Conditions For Self-Bonding

a. At subsection (d), the language “Subject to subsection (f)” was added at the beginning of the introductory sentence and the language “at the time the self-bond is accepted” was added at the end of this sentence.

b. New paragraphs (3) through (6) were added to IC 14-34-7-4(d) to read as follows:

(3) The applicant is not subject to any outstanding cessation order issued under IC 13-4.1-11-5 (before its repeal), IC 14-34-15-6, or the Surface Mining Control and Reclamation Act.

(4) The applicant does not owe any civil penalties under IC 13-4.1-12 (before its repeal), IC 14-34-16, or the Surface Mining Control and Reclamation Act.

(5) The applicant does not owe any fees under this article, IC 13-4.1 (before its repeal), or the Surface Mining Control and Reclamation Act, and is not delinquent in the payment of any fees or civil penalties.

(6) The applicant's permit has never been suspended under this article or IC 13-4.1 (before its repeal), and the applicant is not listed on the Applicant Violator System (AVS).

c. IC 14-34-7-4(d)(7). Existing IC 13-4.1-6.3-8(3) was redesignated as IC 14-34-7-4(d)(7) and the introductory sentence was revised by changing the work “show” to “demonstrate,” by changing the word “meets” to “satisfies,” and by adding the phrase “at least” before the word “one.” The following subparagraphs were also revised.

The following additional requirement was added at IC 14-34-7-4(d)(7)(A).

The applicant must identify the rating service used by the applicant and provide any additional relevant information concerning how the service arrived at the specific ratings.

The following additional requirement was added at IC 14-34-7-4(d)(7)(B).

The ratio requirements set forth in this clause must be met for the year immediately preceding the application, and must be documented for the four (4) years preceding the application. An explanation shall be included for any year in which the ratios of the applicant did not meet the requirements set forth in this clause. The failure of an applicant to meet the ratio requirements set forth in this clause for any of the four (4) years preceding the application does not necessarily disqualify an applicant for self-bonding under this chapter.

The following additional requirement was added at IC 14-34-7-4(d)(7)(C).

The ratio requirements set forth in this clause must be met for the applicant's fiscal year immediately preceding the application, and must be documented for the four (4) years preceding the application. An explanation shall be included for any year in which the ratios of the applicant did not meet the requirements set forth in this clause. The failure of an applicant to meet the ratio requirements set forth in this clause for any of the four (4) years preceding the application does not necessarily disqualify an applicant for self-bonding under this chapter.

d. *IC 14-34-7-4(d)(8)*. Existing IC 13-4.1-6.3-8(4) was redesignated as IC 14-34-7-4(d)(8). New subparagraphs (C) and (D) were added and existing subparagraph (C) was redesignated (E). New subparagraphs (C) and (D) read as follows.

(C) Comparative financial data from a five (5) year period, that must include a comparative income statement and a comparative balance sheet.

(D) A statement listing: (i) every lien filed against any assets of the applicant in any jurisdiction in the United States for an amount that is more than two percent (2%) of the applicant's net worth; (ii) every action pending against the applicant; (iii) every judgment rendered against the applicant within the seven (7) years preceding the application that remains unsatisfied and for an amount that is more than two percent (2%) of the applicant's net worth; and (iv) any petitions or actions in bankruptcy against the applicant, including actions for reorganization.

3. *IC 14-34-7-4(e), (f), and (g)*. Additional requirements for self-bonding were added at new subsections (e), (f), and (g).

(e) If an applicant submits financial information to demonstrate that the applicant satisfies the criteria set forth in subsection (d)(7)(B) or (d)(7)(C), the two (2) ratios set forth in subsection (d)(7)(B) or (d)(7)(C) shall be calculated with the proposed self-bond amount included in the current liabilities or

total liabilities for the year of the application. The operator may deduct from the total liabilities the costs currently accrued for reclamation that appear on the balance sheet current in the year of the application.

(f) Notwithstanding subsection (d)(7), the director may not accept a self-bond from an applicant unless the financial ratios of the applicant are at least as favorable as those listed for the medium performers in the Dun and Bradstreet listing of Industry Norms and Key Business Ratios.

(g) Each lien, action, and petition listed under subsection (d)(8)(E) must be identified by the named parties, the jurisdiction in which the matter was filed, the case number, and the final disposition or the current status of any action still pending.

G. IC 14-34-7-4.1 Replacement of Self-Bonds

Indiana proposes to add the following new requirements for replacement of self-bonds at IC 14-34-7-4.1

(a) Before January 1, 1996, all self-bonds in effect on July 1, 1995, must be replaced in one (1) of the following ways: (1) The self-bond may be replaced by another form of bond allowed under IC 13-4.1-6. (2) The self-bonded permittee may reapply for self-bonding under this chapter.

(b) If the application of a permittee submitted under subsection (a)(2) is not accepted, the permittee must replace its self-bond with another form of bond allowed under IC 14-34-6.

H. IC 14-34-7-5 Corporate Guarantee

Indiana proposes to amend recodified IC 14-34-7-5 [previously IC 13-4.1-6.3-9] as follows.

1. New subsection (a) is added.

(a) A written guarantee accepted under this section is referred to as a "corporate guarantee".

2. Existing subsection (a) is redesignated as subsection (b), and the language "at the time the self-bond is accepted" is added after the word "if." Also, subsection (b)(2) is revised by changing the word "meets" to "satisfies," and replacing the reference to section 4(d)(4) with a reference to section 4(d)(8).

3. Existing subsection (b) is redesignated as subsection (c). Subsection (c)(1) is revised by adding the language "complete the reclamation plan" after the first reference to "the guarantor shall." Subsection (c)(3) is revised by replacing the language "The cancellation" with the language "A notice of cancellation of a corporate guarantee." Also at subsection (c)(3)(A), Indiana is requiring that for a replacement bond to be suitable, it must be allowed under IC 13-4.1-6 (before its repeal) or IC 14-34-6.

I. IC 14-34-7-7 Indemnity Agreement Conditions

Indiana proposes to amend recodified IC 14-34-7-7 [previously IC 13-4.1-6.3-11] as follows.

1. The introductory sentence is revised by removing the language "subject to the following" and adding the requirement that the indemnity agreement be submitted to the director. A second sentence requiring the indemnity agreement to meet the following requirements is added.

2. A new subsection IC 14-34-7-7(1) is added as follows.

(1) The indemnity agreement must provide in express terms that the persons or parties bound by the agreement are liable to the director for all costs incurred by the director: (A) in pursuing forfeiture of any self-bonds posted by the permittee for whom the indemnity agreement was submitted; and (B) in reclaiming those areas at which the permittee for whom the indemnity agreement was submitted retains excess monetary liability to the director under IC 14-34-6-16(c).

3. Existing subsections IC 14-34-7-7(1), (2), and (3) are redesignated IC 14-34-7-7(2), (3), and (4), respectively, with only minor language changes made to clarify the existing provisions.

4. Existing subsection IC 14-34-7-7(4) is redesignated IC 14-34-7-7(5), and the language "in default" is removed and replaced with the language "as to which a bond has been forfeited for failure to reclaim."

5. A new subsection IC 14-34-7-7(6) is added as follows.

(6) All bonds and guarantees must be indemnified corporately and personally by all principals.

J. IC 14-34-7-7.1 Use of Collateral to Support a Self-Bond

Indiana proposes to add the following new section at IC 14-34-7-7.1.

(a) If an application for self-bonding is rejected based on the information required by section 4 of this chapter or limitations set forth in section 4 of this chapter, the applicant may offer collateral (as defined in section 0.5 of this chapter) and an indemnity agreement to support the applicant's self-bond application. An indemnity agreement offered under this subsection is subject to the requirements of section 7 of this chapter.

(b) The following information must be provided about collateral offered under subsection (a) to support a self-bond: (1) The value of the property. The property must be valued at the difference between the fair market value of the property and reasonable expenses the department anticipates incurring in selling the property. The fair market value must be determined by an appraiser proposed by the applicant. The director may reject an appraiser proposed by the applicant. An appraisal of property must

be performed expeditiously and a copy of the appraisal must be furnished to the director and the applicant. The applicant must pay the cost of the appraisal. (2) A description of the property, indicating that the property is satisfactory for deposit under this section, and a statement of: (A) all liens, encumbrances, or adverse judgments imposed on the property; and (B) any pending litigation relating to the property.

(c) The director has full discretion in accepting collateral offered under subsection (a) to support a self-bond.

(d) Real property offered as collateral under subsection (a) may not include lands that are in the process of being mined or reclaimed or lands that are the subject of an application under this chapter. The operator may offer land that was formerly subject to a bond if the bond has been released.

(e) Securities offered as collateral under subsection (a) may include only securities that meet the definition of collateral set forth in section 0.5 of this chapter.

(f) Personal property offered as collateral under subsection (a) must be in the possession of the operator, must be unencumbered, and may not include the following: (1) Property that is already being used as collateral. (2) Goods that the operator sells in the ordinary course of business (3) Fixtures. (4) Certificates of deposit that are not federally insured or that are issued by a depository that is unacceptable to the director.

(g) Evidence of ownership of property offered as collateral under subsection (a) must be submitted in one (1) of the following forms: (1) If the property offered is real property, the interest of the applicant must be evidenced by a title certificate or similar evidence of title and encumbrance prepared by an abstract office that is: (A) authorized to transact business in Indiana; and (B) satisfactory to the director. (2) If the property offered is a security, the operator's interest must be evidenced by possession of the original or a notarized copy of the certificate or a certified statement of account from a brokerage house. (3) If the property offered is personal property, evidence of ownership must be submitted in a form that: (A) is satisfactory to the director; and (B) affirmatively establishes unencumbered title to the property of the operator.

(h) An applicant that offers personal property as collateral under subsection (a), in addition to submitting the evidence required by subsection (g), must satisfy the financial requirements set forth in section 4(d)(7)(B) and 4(d)(7)(C) of this chapter.

(i) If the director accepts personal property from an applicant as collateral under subsection (a), the director shall require the following: (1) Quarterly and annual maintenance reports prepared by the applicant. (2) A perfected, first lien security interest in the property in favor of the department of natural resources. The security interest must be perfected through: (A) the filing of a financing statement; or (B) surrender of possession of the collateral to the department under subsection (k).

(j) If the director accepts personal property from an applicant as collateral under subsection (a), the director may require

quarterly or annual inspections of the personal property by a qualified representative of the department.

(k) If the director accepts personal property from an applicant as collateral under subsection (a), the director shall, as applicable, require: (1) possession by the department of the personal property; or (2) a mortgage or security agreement executed by the applicant in favor of the department.

(l) The property interest conveyed under subsection (k) vests in the department to secure the right and power to sell or otherwise dispose of the property by public or private proceedings so as to ensure reclamation of the affected lands in accordance with the reclamation plan.

(m) A mortgage executed under subsection (k)(2) must be executed and recorded so as to be first in time and constitute notice of the interest of the department in the property to any prospective subsequent purchaser of the property.

(n) Any income received from the collateral during the period when the collateral is in the possession of the department shall be remitted to the applicant.

(o) If collateral is left in the possession of the applicant, the security agreement executed under subsection (k)(2) must require that, upon default, the applicant shall assemble the collateral and make it available to the department at a place designated by the department that is reasonably convenient to both parties. All costs of transporting and assembling the collateral shall be borne by the applicant.

(p) With the consent of the director, an applicant may substitute other property for any property accepted and held as collateral under this section. Property may be substituted under this subsection only if: (1) all the information required concerning property originally submitted as collateral is provided concerning the proposed substitute collateral; and (2) all requirements of this section are met with respect to the proposed substitute collateral so that all obligations relating to mining operations are secured under all period of time.

(q) If collateral is posted under subsection (a) to support a self-bond, the applicant shall: (1) notify all persons that have an interest in the collateral of the posting of the collateral and of all other actions affecting the collateral; and (2) provide copies of the notices provided under subdivision (1) to the director.

K. IC 14-34-7-8 Information Requirements for Self-Bonding

Indiana proposes to revise recodified IC 14-34-7-8 [previously IC 13-4.11-6.3-12] as follows.

The director shall require self-bonded applicants and corporate guarantors to submit: (1) an update of the information required under section 4(d)(7), 4(d)(8), and 4(f) of this chapter within ninety (90) days after the close of each fiscal year; and (2) information required under section 4(d)(8)(B) of this chapter on a quarterly basis not later than sixty (60) days after the end of each quarter; following the issuance of the self-bond or corporate guarantee.

L. IC 14-34-7-9 Requirements for a Change in Financial Conditions

Indiana proposes to revise recodified IC 14-34-7-9 [previously IC 13-4.1-6.3-13] by changing the referenced section 4(d)(3) to sections 4(d)(7) and (4)(f) and by replacing the word "not" with the words "no longer."

M. IC 14-34-7-10 Self-Bonding Report Requirements

Indiana proposes to add the following new section at IC 14-34-7-10.

(a) An applicant shall submit, in addition to the financial information required under section 4 of this chapter, a report prepared by a qualified independent public accounting consultants selected from a list of public accounting consultants approved by the director. The director shall consider the information in the report when deciding whether to accept the self-bond of an applicant.

(b) The director may also require reports described in subsection (a) after the director accepts the applicant's self-bond, but not more than one (1) time every three (3) years while the self-bond is posted, except as provided in subsection (d).

(c) A consultant who prepares a report under this section must: (1) verify that the financial information required under section 4 of this chapter was prepared in accordance with generally accepted accounting principles; (2) verify that the accounting principles referred to in subdivision (1) were applied consistently for each year of the period for which the information is submitted; (3) state the amount of, and reason for, any restatement of the financial information referred to in subdivision (1) that is necessary to meet the requirements of subdivision (2); and (4) state whether any information reviewed during the preparation of the report would lead the consultant to conclude that the applicant would not meet the requirements of section 4 of this chapter at the end of each of the three (3) fiscal years ending after the calendar month in which the report is completed.

(d) If the consultant who prepares a report under this section is unable to provide the information required by subsection (c)(4), the applicant for whom the report is prepared shall submit an updated report annually.

(e) An applicant shall submit a report required under this section not later than ninety (90) days after the director notifies the applicant or permittee that the report is required.

(f) If an applicant fails to submit a report required under subsection (a), the director shall refuse to accept the self-bond of the applicant until the applicant files the report.

(g) If a permittee who has posted a self-bond under this chapter fails to submit a report required under subsection (b), the director may require the permittee to post an alternate form of bond not later than ninety (90) days after the deadline for the submission of the report.

N. IC 14-34-7-11 Self-Bond Coverage Requirements

Indiana proposes to add the following new section at IC 14-34-7-11.

(a) The director may not accept an applicant's self-bond under this chapter in an increment unless, when the self-bond is initially approved under this chapter, the total area of the increment is one hundred percent (100%) self-bonded.

(b) When a self-bond is initially accepted from a permit applicant under this chapter, the self-bond may cover areas subject to the permit on which, as of July 1, 1995, grading has been deferred.

(c) After a self-bond is accepted under this chapter: (1) coverage under the self-bond continues on any areas subject to a grading deferral that is in existence on July 1, 1995, if the grading deferral is subsequently extended beyond its original term; but (2) an area subject to the permit as to which a grading deferral is granted after July 1, 1995, may not be covered by self-bonding.

(d) An area described in subsection (c)(2): (1) must be covered by another form of bond allowed under IC 14-34-6; and (2) may not be covered by the surface coal mine reclamation bond pool established by IC 14-34-8.

O. IC 14-34-7-12 Self-Bond Phase I Grading Release Requirements

Indiana proposes to add the following new section at IC 14-34-7-12.

(a) If a permittee who posted a self-bond under this chapter does not file an application for a Phase I grading release with the department before the second November 1 after the year in which the coal was removed from the site covered by the self-bond, the permittee shall replace the self-bond with an alternate form of bond within ninety (90) days of the November 1 deadline established under this subsection.

(b) If: (1) a permittee who posted a self-bond under this chapter files an application for a Phase I grading release with the department before the second November 1 after the year in which the coal was removed from the site covered by the self-bond; but (2) the application is rejected by the department; the permittee replace the self-bond with an alternate form of bond not later than ninety (90) days after the denial of the application for a Phase I grading release becomes a final order of the department.

(d) All acreage and structures that are within a permitted area and are used to facilitate active mining and reclamation operations are exempt from subsection (c). Areas described in this subsection include, but are not limited to, the following: (1) Processing sites. (2) Tipples. (3) Railroad sidings. (4) Buildings. (5) Haul roads. (6) Topsoil stockpiles. (7) Sediment ponds.

(e) For the purposes of subsection (d), the director shall determine what areas are used to facilitate active mining and reclamation operations.

(f) A permittee shall submit annual reports to the department in a form that the director considers necessary to facilitate the effective monitoring of acres under self-bonding that have been affected and reclaimed.

(g) An area that: (1) is not subject to the time limitations set forth in subsection (c); and (2) has been used for the disposal of: (A) coal combustion fly or bottom ash; (B) flue gas desulfurization byproducts generated by coal combustion units; or (C) coal processing wastes; is no longer eligible for self-bonding ten (10) years after the disturbance of the area or the self-bonding of the area, whichever is later. An alternative form of bond must be posted for the area under IC 14-34-6 not later than ninety (90) days after the area becomes ineligible for self-bonding under this subsection.

(h) Whenever an area is determined to be no longer eligible for self-bonding, and an alternative form of bond is posted under IC 14-34-6, the area: (1) is never again eligible for self-bonding; and (2) may not be bonded by the surface coal mine reclamation bond pool established under IC 13-4.1-6.5-3.

P. IC 14-34-7-13

Indiana proposes to add the following new section at IC 14-34-7-13.

For purposes of IC 1-1-1-8, if the amendments to IC 14-34-7-1, as amended by SEA 125-1995, are held invalid or otherwise unenforceable, the other amendments to IC 14-34-7 made by SEA 125-1995 are also void.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Indiana program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Indianapolis Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., e.s.t., on February 6, 1996. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM

officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

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

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, 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 since each such 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 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.

National Environmental Policy Act

No environmental impact statement is required for this rule since 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 has determined 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. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be

implemented by the State. 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.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 9, 1996.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

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