

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 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 6, 2006.

H. Vann Weaver,
Acting Regional Director, Appalachian Region.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

[SATS No. WY-035-FOR]

Wyoming Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.
ACTION: Proposed rule; reopening and extension of public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing the receipt of additional explanatory information pertaining to a previously proposed amendment to the Wyoming regulatory program (hereinafter, "the Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). In lieu of changing the proposed rule language, as we suggested in our issue letter, Wyoming has submitted additional explanatory information about its self-bonding rules (Rule Package 1-U) with

respect to the inclusion of foreign assets as part of a company's tangible net worth and the eligibility of foreign companies to self-bond or guarantee a self-bond. We are seeking input on whether the Wyoming explanation provides sufficient basis for us to approve the proposed amendment.

DATES: We will accept written comments on this amendment until 4 p.m., m.d.t. August 15, 2006.

ADDRESSES: You may submit comments, identified by "SATS No. WY-035-FOR" by any of the following methods:

- *E-mail:* JFleischman@osmre.gov. Include "SATS No. WY-035-FOR" 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, Rm 1018, Casper, Wyoming 82601-1018, 307/261-6550.
- *Fax:* 307/261-6552.
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and "SATS No. WY-035-FOR." For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Comment Procedures" heading under the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: Access to the docket, to review copies of the Wyoming program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, may be obtained 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's (OSM) Casper Field Office. In addition, you may review a copy of the amendment during regular business hours at the following locations:

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

John V. Corra, Director, Wyoming Department of Environmental Quality, Herschler Building, 122 West 25th Street, Cheyenne, Wyoming 82002, 307/777-7046, E-mail: jcorra.state.wy.us.

FOR FURTHER INFORMATION CONTACT:
Jeffrey W. Fleischman, Telephone: 307/

261-6550; E-mail: JFleischman@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Wyoming Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures

I. Background on the Wyoming 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 Wyoming program on November 26, 1980. You can find background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Wyoming program in the November 26, 1980, **Federal Register** (45 FR 78637). You can also find later actions concerning Wyoming's program and program amendments at 30 CFR 950.11, 950.12, 950.15, 950.16, and 950.20.

II. Description of the Proposed Amendment

By letter dated March 7, 2006, Wyoming submitted an amendment to its program proposing revisions to and additions of rules concerning self-bonding requirements (Administrative Record No. WY-40-01) under SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming sent the amendment to reflect 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**.

We announced receipt of the proposed amendment in the April 21, 2006, **Federal Register** (71 FR 20604), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (Administrative Record No. WY-40-07). Because no one requested a public hearing or meeting, none was held. The public comment period ended on May 22, 2006. We received comments from two industry groups and one Federal agency.

During our review of the amendment, we identified concerns relating to the

newly-created provisions of Wyoming's Coal Rules and Regulations at Chapter 11, Section 2(a)(xii)(D) and (E) that would authorize the Administrator to accept guarantees from foreign companies for self-bonds for domestic mining companies and allow the inclusion of foreign assets as part of a company's tangible net worth when determining eligibility to guarantee a self-bond. We notified Wyoming of our concerns by letter dated May 26, 2006 (Administrative Record No. WY-40-08). Wyoming responded in a letter dated June 23, 2006, by submitting additional explanatory information (Administrative Record No. WY-40-09).

The additional explanatory information pertains to Chapter 11, Section 2(a)(xii)(D), which allows an operator to include foreign assets when calculating tangible net worth if the operator provides the information required under newly-created subsection (E), and Chapter 11, Section 2(a)(xii)(E), which details the additional requirements that apply before the Administrator may accept a foreign parent or non-parent corporate guarantee. Based on the additional explanatory information, Wyoming suggests that no further changes in the rule language are necessary.

Specifically, Wyoming states that Sections 2(a)(xii)(D) and (E) are a subset of a larger set of financial information required as part of the self-bond application process, and that the Administrator's approval is conditioned on the applicant's submission of additional financial data set forth in Sections 2(a)(xii)(A)–(E). Wyoming also

maintains that Section 2(a)(xii)(E)(I), which requires "A legal opinion from a firm recognized to do business in the country of the firm's international headquarters concerning the collectability of a self-bond in the foreign country," serves to verify that the self-bond can in fact be collected and will also explain how it is to be collected. Lastly, Wyoming explains that the availability of methods it plans to utilize for collecting assets of non-parent foreign guarantors will be addressed as part of the legal opinion required by Section 2(a)(xii)(E)(I), which must address the collectability of the bond or guarantee.

III. Public Comment Procedures

Written Comments

Send your written comments to OSM at the address given above. Your written 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 may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: SATS No.

WY-035-FOR" and your name and return address in your Internet message. If you do not receive confirmation that we have received your Internet message, contact the Casper Field Office at 307/261-6550. In the final rulemaking, we will not consider or include in the administrative record any electronic comments received after the time indicated under **DATES** or at e-addresses other than the Casper Field Office.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 28, 2006.

Allen D. Klein,

Director, Western Region.

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