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U. S. DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT

DIRECTIVES SYSTEM

Subject Number: REG 5-3

Transmittal Number: 675

Date: 6/4/91

Subject: Processing of Proposed State Regulatory Programs, Amendments and Part 732 Notifications

Approval: Title: Director

Directive REG-5, Transmittal Number 508, dated January 18, 1989, is revised to provide additional guidance concerning the review and approval of State proposals to adopt or revise alternative bonding systems.

Specifically, the following changes have been made:

1. A new paragraph is added to the list of references in Part 6 to read as follows:

   * e. "Alternative Bonding Systems: An Analytical Approach and Identified Factors to Consider for Evaluating Alternative Bonding Systems," November, 1990.

2. A new sentence is added to the end of Part 1 of Appendix 1 to read as follows:

   * In addition, Appendix 8 provides guidance for reviewing alternative bonding systems proposed under 30 CFR 800.11(e) and section 509(c) of SMCRA.

3. A new sentence is added to the end of Part 2.a.(3) of Appendix 2 to read as follows:

   * In addition, Appendix 8 provides guidance for reviewing alternative bonding systems or revisions thereto proposed under 30 CFR 800.11(e) and section 509(c) of SMCRA.

4. A new sentence is added to the end of Part 3.b. of Appendix 2 to read as follows:

   * In addition, Appendix 8 provides guidance for reviewing alternative bonding systems or revisions thereto proposed under 30 CFR 800.11(e) and section 509(c) of SMCRA.

5. An introductory note is added to Appendix 4 to read as follows:

CHANGE NOTICE

* <u>Note</u>: Considerations for reviewing alternative bonding systems proposed under 30 CFR 800.11(e) and section 509(c) of SMCRA are located in Appendix 8.

6. A new Appendix 8 is added to read as follows:

Appendix 8

Considerations for Reviewing Alternative Bonding Systems

1. Proposed new alternative bonding systems.

   a. Statutory and regulatory considerations. Section 509(c) of the Surface Mining Control and Reclamation Act [30 U.S.C. 1259(c)] allows the Secretary to approve an alternative bonding system (ABS) if it meets the objectives and purposes of the bonding program requirements contained in the other provisions of section 509. To interpret this provision, the Secretary promulgated 30 CFR 800.11(e), which specifies that any such system should:

      (1) Assure that the regulatory authority will have available sufficient money to complete the reclamation plan for any areas which may be in default at any time; and

      (2) Provide a substantial economic incentive for the permittee to comply with all reclamation provisions of the permit and regulatory program.

   b. Other considerations. As part of the OSM decision-making process, each State submittal proposing establishment of an ABS should be reviewed using the considerations listed in the document entitled "Alternative Bonding Systems: An Analytical Approach and Identified Factors to Consider for Evaluating Alternative Bonding Systems," dated November, 1990.

2. Proposed revisions to alternative bonding systems.

   Any proposed revision to an existing approved alternative bonding system must be evaluated to determine whether the revised system as a whole is approvable under 30 CFR 800.11(e).