

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 April 21, 1998. The location and time of the hearing will be arranged with those persons requesting the hearing. 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**. 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.

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 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (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 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 exiting 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 assumption for the counterpart Federal regulations.

Unfunded Mandates

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 27, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 98-8892 Filed 4-3-98; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN-131-FOR; State Program Amendment No. 95-13]

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 Indiana's regulations pertaining to the definition of "affected area," submittal of underground mining operation plans, and the standards for prime farmland restoration by surface and underground coal mining operations. The amendment is intended to revise the Indiana regulations to be consistent with the corresponding Federal regulations.

This document sets forth the times and locations that the Indiana program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing.

DATES: Written comments must be received by 4:00 p.m., e.s.t., May 6, 1998. If requested, a public hearing on the proposed amendment will be held on May 1, 1998. Requests to speak at the hearing must be received by 4:00 p.m., e.s.t. on April 21, 1998.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Andrew R. Gilmore, 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.

Andrew R. Gilmore, Director,
Indianapolis Field Office, Office of
Surface Mining Reclamation and
Enforcement, Minton-Capehart
Federal Building, 575 North
Pennsylvania Street, Room 301,
Indianapolis, IN 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:
Andrew R. Gilmore, 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 914.15, and 914.16.

II. Description of the Proposed Amendment

By letter dated March 6, 1998 (Administrative Record No. IND-1597), Indiana submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment in response to the required program amendments at 30 CFR 914.16(n), 914.16(p), and 914.16(gg) and at its own initiative.

Indiana proposes to amend the Indiana Administrative Code (IAC) at 310 IAC 12 as discussed below.

I. 310 IAC 12-0.5-6 Definition of Affected Area

At section 12-0.5-6, Indiana proposes to designate the existing provision as subsection (a) and amend the definition of "Affected area" to mean "any land or water surface area that is used to facilitate, or is physically altered by, surface coal mining and reclamation operations." Paragraph (2) was amended by changing the word "an" to the word "any." Paragraph (3) was amended by changing the language "adjacent land" to "any adjacent lands." Paragraph (4) was revised by changing the language "an area" to "all areas" at the beginning of the paragraph and adding the language "except as provided in this section" at the end of the paragraph. New paragraph (5) was added to read "Any adjacent lands, the use of which is incidental to surface coal mining and reclamation operations." Existing paragraph (5) was redesignated as paragraph (6), the words, "a site" were changed to "any area," and the word "trailings" was corrected to read "tailings." Existing paragraph (6) was redesignated paragraph (7), the words "an area" were changed to "any areas," and the word "incidental" was changed to "incident." Existing paragraph (7) was redesignated paragraph (8) and the words "of a mine" were removed.

New subsections (b) and (c) were added to read as follows:

(b) The affected area shall include every road used for purposes of access to, or for hauling coal to or from, surface coal mining and reclamation operations unless:

(1) The road was designated as a public road pursuant to the laws of the jurisdiction in which it is located;

(2) The road is maintained with public funds, and constructed in a manner similar to other public roads of the same classification within the jurisdiction;

(3) There is substantial (more than incidental) public use; and

(4) The extent and the effect of mining-related uses of the road by the permittee does not warrant regulation as part of the surface coal mining and reclamation operations.

(c) The director shall determine, on a case-by-case basis, whether a particular road satisfies the requirements of subsection (b)(4), based upon the mining-related use of the road and consistent with the definition of surface coal mining operations found in section 125 of this rule.

2. 310 IAC 12-3-78 Underground Mining Permit Applications; Operation Plan; General Requirements

Existing subsections (b) and (c) were added to subsection (a), subsection (a)

was revised, new subsection (b) was added, and existing subsection (d) was redesignated as subsection (c). Revised subsection (a) and new subsection (b) read as follows:

(a) Each application shall contain a description of the mining operations proposed to be conducted within the proposed permit area and the proposed life of the mine area where such information is necessary to demonstrate that reclamation required by IC 14-34 can be accomplished by the applicant. The description shall include, at a minimum, the following:

(1) A narrative description of the type and method of coal mining procedures and proposed engineering techniques, anticipated annual and total production of coal, by tonnage, and the major equipment to be used for all aspects of those operations.

(2) A narrative explaining the construction, modification, use, maintenance, and removal of the following facilities (unless the retention of such facilities is necessary for a postmining land use as specified in 310 IAC 12-5-136.5):

(A) Dams, embankments, and other impoundments.

(B) Overburden and topsoil handling and storage areas and structures.

(C) Coal removal, handling, storage, cleaning, and transportation areas and structures.

(D) Spoil, coal processing waste, mine development waste, and noncoal waste removal handling, storage, transportation, and disposal areas and structures.

(E) Mine facilities.

(F) Water pollution control facilities.

(b) In addition to the requirements listed in subsection (a), each applicant for an underground coal mining and reclamation permit shall submit a description, plans, and drawings for each support facility to be constructed, used, or maintained within the proposed permit area. The plans and drawings shall include a map, appropriate cross sections, design drawings, and specifications sufficient to demonstrate compliance with 310 IAC 12-5-139 for each facility.

3. 310 IAC 12-3-98 Special Categories of Mining; Prime Farmland

Minor wording changes and citation reference changes were made throughout this section. Subsection (d)(1) was revised to read as follows:

A soil survey of the permit area under the standards of the National Cooperative Soil Survey and under the procedures set forth in U.S. Department of Agriculture Handbooks 436 (Soil Taxonomy, 1975) and 18 (Soil Survey Manual, 1951). The soil survey shall include a description of soil mapping units and a representative soil profile as determined by the U.S. Soil Conservation Service, including, but not limited to, soil horizon depths, pH, and the range of soil densities for each prime farmland soil unit within the permit area. Other representative soil-profit descriptions from the locality, prepared according to the standards of the National Cooperative Soil Survey, may be

used if their use is approved by the State Conservationist, U.S. Soil Conservation Service. The director may request the operator to provide information on other physical and chemical soil properties as needed to make a determination that the operator has the technical capability to restore the prime farmland within the permit area to the soil-reconstruction standards of 310 IAC 12-5-145 through 310 IAC 12-5-148.5.

4. 310 IAC 12-5-145.5 *Prime farmland; special performance standards; United States Soil Conservation Service Criteria*

Indiana added the following new provision at 310 IAC 12-5-145.5:

To carry out his or her responsibilities under 310 IAC 12-3-98 and 310 IAC 12-4, the director shall use any prime farmland soil-reconstruction specifications promulgated as rules by the United States Soil Conservation Service for Indiana.

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.

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Regional Director, Mid-Continent Regional Coordinating Center.

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