

royalty-owners indicates a consistent belief that oil posted prices may not represent market value. And, while posted prices historically were presumed to represent actual prices offered for a particular crude oil, postings no longer necessarily represent an offer to buy at that price.

Revising the benchmark system in the regulations could remove some of the current heavy reliance on posted oil prices and provide MMS more flexibility in determining proper royalty value.

MMS is soliciting comments on the continued applicability of oil posted prices as a fair and reasonable indicator of royalty value. Specifically, MMS seeks input on how oil marketing takes place today and whether and how oil posted prices typically factor into oil sales/purchases/exchanges.

MMS invites specific comments on various aspects of posted prices as applied to crude oil sales and royalty value for Federal and Indian leases, including the option of separate oil valuation regulations for Indian leases. MMS would like examples demonstrating whether crude oil price postings form the true basis for oil values in given fields or areas—and, to the extent possible, nationwide. And, if the commenter feels postings don't reflect market value for the field or area, MMS would like specific suggested alternative royalty valuation methodologies for oil not sold under arm's-length conditions. That is, if postings don't reflect market value and because the existing benchmarks for oil not sold under arm's-length conditions rely heavily on posted prices, what are some suggested alternative valuation benchmarks? For example:

- Are there indices or other published prices that better reflect actual market value than oil postings?
- Where prices posted by individual companies differ considerably within the same field or area, how are these differences best reconciled?
- Are there fixed "reference" prices against which quality, transportation, and other adjustments can be made to develop reasonable royalty values (e.g., West Texas Intermediate)?
- Are spot prices of sufficient reliability and do they cover wide enough geographic areas to use as value bases?
- Do oil "futures" prices provide meaningful bases for royalty valuation?
- What alternative valuation method(s) best balance the needs to (a) reflect the market value of the oil as sold, exchanged, or otherwise disposed of; and (b) maximize administrative efficiency for all concerned? (Please

consider the amount of information needed by the lessee and MMS, and the overall administrative costs of all parties.)

For royalty valuation involving arm's-length transactions, MMS generally accepts the contractual terms, which may include postings. MMS further requests comments on whether the use of alternative methods for valuing oil not sold under arm's-length conditions would impact the acceptability of posted prices for valuing oil sold at arm's-length.

(b) Quantifying "Significant Quantities" of Oil

The current MMS royalty valuation benchmarks for oil not sold under arm's-length contract rely on "significant quantity" determinations. Under the benchmarks, the lessee's or others' posted or contract prices used in arm's-length purchases or sales of "significant quantities" of like-quality oil from the same field or area establish royalty value. The first applicable of the five benchmarks is to be used, and the first four rely on "significant quantity" determinations. For example, if the lessee sells "significant quantities" of its field production at arm's-length, the arm's-length contract sales price may apply to the lessee's other, internally-transferred crude oil from the same field. But the existing regulations contain no fixed definition of "significant quantities," either on an absolute or relative basis. Thus, MMS would like comments on the best ways to determine what constitutes "significant quantities." For example:

- Is there an absolute volume measure (barrels per day/month/year, etc.) that would allow MMS to determine whether specific arm's-length sales involve "significant quantities"? If so, should this volume vary by field or area?
- Is there a fixed percentage of field or area production that MMS can use as a comparison basis to determine whether specific arm's-length sales represent "significant quantities"?
- What should be the comparative basis for "significant quantity" determinations? Should individual arm's-length transactions be related to *all* field production, or should some volumes such as internal company transfers of production or exchanges or buy/sell exchanges with other oil companies first be excluded from field production?
- Are there measures other than "significant quantities" that may better apply given alternative valuation scenarios?

In providing comments on (a) and (b) above, please consider not only current oil marketing practices, but also any changes that may be foreseen. MMS intends for any oil valuation rule changes to be flexible enough to accommodate future oil marketing changes as much as possible to avoid ongoing rule modification.

In addition to comments on (a) and (b) above, MMS would like comments on the process to use and make potential changes to the oil valuation rules. Specifically, MMS would like comments on whether any oil valuation regulatory changes should be subject to negotiated rulemaking procedures or other consensual mechanisms for developing regulations.

Dated: December 8, 1995.

Bob Armstrong,

Assistant Secretary for Land and Minerals Management.

[FR Doc. 95-30767 Filed 12-19-95; 8:45 am]

BILLING CODE 4310-MR-P

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[IN-110, Amendment Number 93-7, Part II]

Indiana Permanent Regulatory Program Amendment

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

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM is announcing receipt of additional changes to an amendment previously submitted by Indiana as a modification to the State's permanent regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The changes add new language concerning minor field revisions to the second of three subparts of the original amendment. The changes are intended to incorporate language desired by the State.

This notice sets forth the times and locations that the Indiana program and the proposed amendment to that program will be 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 for a public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on

January 4, 1996; if requested, a public hearing on the proposed amendment is scheduled for 1:00 p.m. on January 3, 1996; and requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on January 2, 1996.

ADDRESSES: Written comments and requests to testify at the hearing should be directed to Mr. Roger W. Calhoun, Director, Indianapolis Field Office, at the address listed below. If a hearing is requested, it will be held at the same address.

Copies of the Indiana program, the amendment, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the following locations, during normal business hours, Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204. Telephone: (317) 226-6166.
Indiana Department of Natural Resources, 402 West Washington Street, Room 295, Indianapolis, IN 46204. Telephone: (317) 232-1547.

Each requester may receive, free of charge, one copy of the proposed amendment by contacting the OSM Indianapolis Field Office.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Telephone (317) 226-6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

On July 29, 1982, the Indiana program was made effective by the conditional approval of the Secretary of the Interior. Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982, Federal Register (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.10, 914.15, and 914.16.

II. Discussion of the Proposed Amendments

Since July 29, 1982, (the date of conditional approval of the Indiana program), a number of changes have been made to the Federal regulations concerning surface coal mining and reclamation operations. Pursuant to the Federal regulations at 30 CFR 732.17, OSM informed Indiana on May 22, 1985

(Regulatory Reform I), on August 24, 1988 (Regulatory Reform II), and on September 20, 1989 (Regulatory Reform III), that a number of Indiana regulations are less effective than or inconsistent with the revised Federal requirements.

By letter dated December 30, 1993 (Administrative Record No. IND-1322), the Indiana Department of Natural Resources (IDNR) submitted to OSM a State program amendment package (number 93-7) consisting of revisions to 38 sections of the Indiana rules. These revisions address changes to the Indiana program that were identified in the three letters referred to above, and certain required program amendments. The State has also proposed additional changes which Indiana believes will further improve the approved State program. The primary focus of the submittal is on soil capability and restoration standards, individual civil penalties, significant/non-significant revisions, coal exploration, and performance bonds.

OSM announced receipt of the proposed amendment in the January 24, 1994, Federal Register (59 FR 3528), and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The comment period closed on February 24, 1994.

By letter dated December 6, 1995 (Administrative Record Number IND-1415), Indiana submitted additional minor changes to amendment 93-7.

By letter dated January 12, 1995 (Administrative Record Number IND-1423), OSM provided Indiana with comments concerning the proposed amendment. Indiana responded by letter dated January 25, 1995 (Administrative Record Number IND-1419). In that letter, Indiana said that it wishes to separate amendment 93-7 into three subparts. OSM approved the amendments contained in subpart I on November 9, 1995 (60 FR 56516).

By letter dated May 5, 1995 (Administrative Record Number IND-1462), Indiana submitted additional minor changes to subpart II of amendment 93-7, and added a new subparagraph at 301 IAC 12-3-121(d) concerning minor field revisions.

Indiana proposes to add the following language.

310 IAC 12-3-121(d).

If the director determines on a case-by-case basis or by policy guidelines that the conditions of paragraph (c) of this section are met and that the proposed change does not require technical review or design analysis, the proposed change may be approved as a minor field revision by the field

inspector in the inspection report or on a form signed in the field. Minor field revisions must be properly documented and separately filed and may include, but are not necessarily limited to, the following:

- (1) Soil stockpile locations and configurations.
- (2) As-built pond certifications.
- (3) Minor transportation facilities changes.
- (4) Pond depth/shape/orientation.
- (5) Temporary drainage control/water storage areas.
- (6) Equipment changes.
- (7) Explosive storage areas.
- (8) Minor mine management/support facility locations (not refuse).
- (9) Adding United States Soil Conservation Service conservation practices.
- (10) Methods of erosion protection on diversions.
- (11) Temporary cessation orders.
- (12) Minor diversion location changes.

III. Public Comment Procedures

In accordance with provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Indiana satisfies the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendment is deemed adequate, it will become part of the Indiana program.

Written Comments

Written comments should be specific, pertain only to 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 comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by the close of business on January 2, 1996. If no one requests an opportunity to comment at a 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 comment have been heard.

Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons who desire to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment 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 at the Indianapolis Field Office 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 in advance at the locations listed above under **ADDRESSES**. A summary of the meeting will be included in the Administrative Record.

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 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 the Office of Management and Budget 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. Hence, 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: December 12, 1995.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 95-30948 Filed 12-19-95; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05-95-065]

Drawbridge Operation Regulations; Nacote Creek, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the New Jersey Department of Transportation (NJDOT), the Coast Guard is proposing to change the regulations governing operation of the Route 9 Bridge across Nacote Creek, mile 1.5, in Smithville, Atlantic County, New Jersey. This proposal would require the Route 9 Bridge to open on signal except during the period from 11 p.m. to 7 a.m., when a two-hour advance notice for openings would be required. This change should

help relieve the bridge owner of the burden of having a bridgetender constantly available at times when there are few or no quests for openings, while still proving for the needs of navigation. **DATE:** Comments must be received on or before February 20, 1996.

ADDRESSES: Comments may be mailed to Commander, Fifth Coast Guard District, c/o Commander (obr), First Coast Guard District, Bldg. 135A, Governors Island, New York 10004-5073, or may be hand-delivered to the same address between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668-7170. Comments will become part of this docket and will be available for inspection and copying at the above address.

FOR FURTHER INFORMATION CONTACT: Gary Kassof, Bridge Administrator-NY, Fifth Coast Guard District, (212) 668-6969.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD05-95-065), the specific section of this rule to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Commander, Fifth Coast Guard District, c/o Commander (obr), First Coast Guard District at the address listed under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

Drafting Information

The principal persons involved in drafting this document are Mr. J. Arca, Fifth Coast Guard District, Bridge