

## 2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., M.D.T., on March 28, 1997. 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**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify 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 testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

## 3. Public Meeting

If only one person requests an opportunity to testify 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

### 1. 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).

### 2. 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 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 the Federal regulations at 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.

### 3. 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)).

### 4. 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.*).

### 5. 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 that 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.

### 6. Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

## List of Subjects in 30 CFR Part 906

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 5, 1997.

Richard J. Seibel,

*Regional Director, Western Regional Coordinating Center.*

[FR Doc. 97-6352 Filed 3-12-97; 8:45 am]

BILLING CODE 4310-05-M

## 30 CFR Part 914

[SPATS No. IN-128-FOR; Amendment No. 95-6]

### 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 rules pertaining to identification of interests, compliance information, and permit conditions. The amendment is intended to revise the Indiana program to be consistent with the corresponding Federal regulations.

**DATES:** Written comments must be received by 4:00 p.m., e.s.t., April 14, 1997. If requested, a public hearing on the proposed amendment will be held on April 7, 1997. Requests to speak at the hearing must be received by 4:00 p.m., e.s.t., on March 28, 1997.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Charles F. McDaniel, Acting 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.

Charles F. McDaniel, Acting Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana

46204-1521, 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:** Charles F. McDaniel, Acting 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 February 18, 1997 (Administrative Record No. IND-1555), the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment in response to a letter dated May 11, 1989 (Administrative Record No. IND-0644), that OSM sent to Indiana in accordance with 30 CFR 732.17(c), and at its own initiative. The provisions of the Indiana Administrative Code (IAC) that Indiana proposes to amend are: 310 IAC 12-3-19.1, Surface mining permit applications/identification of interests; 310 IAC 12-3-20, Surface mining permit applications/compliance information; 310 IAC 12-3-57 and 12-3-57.1, Underground mining permit applications/identification of interests; 310 IAC 12-3-58, Underground Mining permit applications/compliance information; and 310 IAC 12-3-114.5, Review, public participation, and approval or disapproval of permit applications/permit terms and conditions/permit conditions.

The full text of the proposed program amendment submitted by Indiana is available for public inspection at the locations listed above under **ADDRESSES**. A brief discussion of the proposed amendment is presented below.

**1. 310 IAC 12-3-19.1 Surface Mining Permit Applications; Identification of Interests**

Section 19.1 specifies the information that must be included in a surface

mining permit application for identification of interests. Indiana proposes to restructure this section to comply with formatting guidelines set out by the Indiana Legislative Services Agency by redesignating subsection (a) as an introductory paragraph, redesignating subsection (a)(1) as subsection (a), redesignating subsection (a)(2) as subsection (b), and redesignating subsections (b) through (i) as subsections (c) through (j).

Indiana also proposes to restructure the existing language in redesignated subsections (c) through (i).

**2. 310 IAC 12-3-20 Surface Mining Permit Applications; Compliance Information**

Section 20 specifies the information that must be included in a surface mining permit application concerning permit suspensions or revocations, bond forfeitures, and notices of violation. At subsections (a) and (b), Indiana proposes minor restructuring to comply with formatting guidelines set by the Indiana Legislative Services Agency. Indiana proposes to delete existing subsection (d), to add its substantive provisions to subsection (c), and to restructure the language in subsection (c). Indiana also proposes to redesignate subsection (e) as new subsection (d).

**3. 310 IAC 12-3-57 and 12-3-57.1 Underground Mining Permit Applications; Identification of Interests**

Indiana proposes to repeal 310 IAC 12-3-57 and to add its substantive provisions to 310 IAC 12-3-57.1. Section 57.1 specifies the information that must be included in an underground mining permit application for identification of interests. The language and structure of the existing provisions were revised to make the new rule consistent with Indiana's surface mining permit application requirements for identification of interests at 310 IAC 12-3-19.1.

**4. 310 IAC 12-3-58 Underground Mining Permit Applications; Compliance Information**

Section 58 specifies the information that must be included in an underground mining permit application concerning permit suspensions or revocations, performance bond forfeitures, and notices of violation. At subsections (a) and (b), Indiana proposes minor restructuring to comply with formatting guidelines set by the Indiana Legislative Services Agency.

Indiana proposes to delete the existing language in the introductory paragraph at subsection (c) and to add new language that requires a permit

applicant to list all violation notices received within the preceding three years. It requires the applicant to list all outstanding violation notices for any mining operation that is deemed or presumed to be owned or controlled by either the applicant or any person who is deemed or presumed to own or control the applicant. It also requires the applicant to certify that the outstanding notices of violation are in the process of being corrected. Indiana proposes minor changes to the existing language in subsections (c)(1) through (5) to reflect changes that were made in the introductory paragraph.

Indiana also proposes to add a new subsection (d) to require the applicant to update, correct, or indicate that no change has occurred in the information submitted under 310 IAC 12-3-58 after he is notified that his or her application is approved.

**5. 310 IAC 12-3-114.5 Review, Public Participation, and Approval or Disapproval of Permit Terms and Conditions; Permit Conditions**

Indiana proposes to add new section 114.5 to specify the conditions under which a permit is issued. Subsection (a) requires the permittee to conduct surface coal mining and reclamation operations only on those lands that are specifically designated as the permit area and bonded. Subsection (b) requires the permittee to conduct operations only as described in the approved application, except to the extent otherwise directed in the permit. Subsection (c) requires the permittee to comply with the terms and conditions of the permit and all applicable performance standards and requirements of the Indiana program. Subsection (d) requires the permittee to allow authorized representatives of the director of IDNR to have right of entry and to be accompanied by private persons when the inspection is in response to an alleged violation reported by a private person. Subsection (e) requires the permittee to take all possible steps to minimize adverse impacts to the environment or public health and safety resulting from a noncompliance with any term or condition of the permit. Subsection (f) requires the permittee to comply with the requirements of the Indiana program for compliance, modification, or abandonment of existing structures. Subsection (g) requires the operator to pay all reclamation fees. Subsection (h) requires the permittee to submit updates, if any, to the information previously submitted under 310 IAC 12-3-19.1(c) within 30 days after a

cessation order is issued under 310 IAC 12-6-5.

## II. 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*

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### *Executive Order 12988*

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### *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*

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### *Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

### List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 5, 1997.

Brent Wahlquist,

*Regional Director, Mid-Continent Regional Coordinating Center.*

[FR Doc. 97-6353 Filed 3-12-97; 8:45 am]

BILLING CODE 4310-05-M